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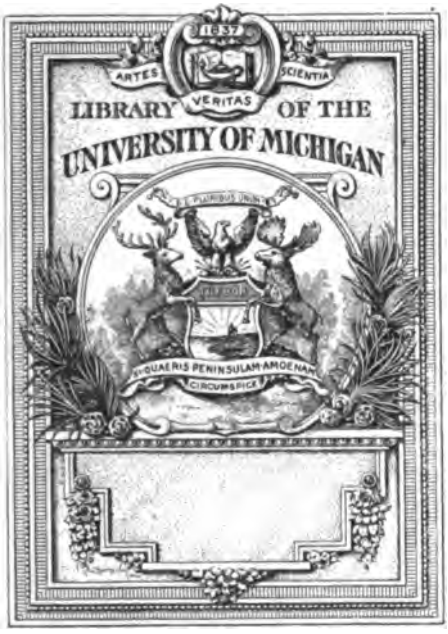

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LORD BACON'S WORKS,

VOLUME THE SEVENTH.

CONTAINING

THEOLOGICAL TRACTS.

MISCELLANEOUS.

JUDICIAL TRACTS AND CHARGES.

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GORHAMBURY, A.D. 1831.

GORHAMBURY, A.D. 1705.

GORHAMBURY, A.D. 1566

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20 — 152

THE WORKS

OF

FRANCIS BACON,

Lord Chancellor of England.

A NEW EDITION:

BY

BASIL MONTAGU, ESQ.

VOL. VII.

LONDON:
WILLIAM PICKERING.
MDCCCXXVII.

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§ 1.

THEOLOGICAL TRACTS.

Archbishop Tenison's *Baconiana* contains the following passage; "Last of all, for his Lordship's writings upon pious subjects, though for the nature of the argument they deserve the first place; yet

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they being but few, and there appearing nothing so extraordinary in the composure of them, as is found in his Lordship's other labours, they have not obtained an earlier mention. They are only these:— "His Confession of Faith, written by himself in English, and turned into Latin by Dr. Rawley, (*a*) the questions about an Holy War, and the Prayers, in these Remains; (*c*) and a translation of certain of David's Psalms into English verse. With this last pious exercise he diverted himself in the time of his sickness, in the year twenty-five. When he sent it abroad into the world, he made a dedication of it to his good friend, Mr. George Herbert, for he judged the argument to be suitable to him, in his double quality of a divine and a poet."

In the life of Lord Bacon, by Dr. Rawley, "his lordship's first and last chaplain," as he always proudly entitles himself, there is the following passage: "This lord was religious: for though the world be apt to suspect and prejudge great wits and politics to have somewhat of the Atheist, yet he was

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(*a*) 1658, in the Opuscula.

(*c*) Baconiana 72. In p. 99, Tenison says, "Under the fourth head of Theological Remains are contained only a few questions about the lawfulness of a holy war; and two prayers, one for a philosophical student, the other for a writer. The substance of these two prayers is extant in Latin in the *Organon*, p. 19, ad Calc partis primæ, and *Scripta*, p. 451, and after title page. See postea of this preface vii.

In page 181, of *Baconiana*, are the Students and Writers Prayers.—See this vol. page 7.

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conversant with God, as appeareth by several passages throughout the whole current of his writings; otherwise he should have crossed his own principles which were, 'that a little philosophy maketh men apt to forget God, as attributing too much to second causes; but depth of philosophy bringeth men back to God again.' Now I am sure there is no man that will deny him, or account otherwise of him, but to have him been a deep philosopher. And not only so, but he was able to render a reason of the hope which was in him, which that writing of his, of the confession of the faith, doth abundantly testify. He repaired frequently (when his health would permit him) to the service of the Church; to hear sermons; to the administration of the sacrament of the blessed body and blood of Christ; and died in the true faith established in the Church of England."

The passage to which Dr. Rawley alludes, is in the "Advancement of Learning,"(*d*) where he says," It is an assured truth, and a conclusion of experience, that a little or superficial knowledge of philosophy may incline the mind of man to Atheism, but a farther proceeding therein doth bring the mind back again to religion; for in the entrance of philosophy, when the second causes, which are next unto the senses, do offer themselves to the mind of man, if it dwell and stay there, it may induce some oblivion of the highest cause; but when a man passeth on farther, and seeth the dependence of

(*d*) Vol. II. p. 13.

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causes, and the works of Providence; then, according to the allegory of the poets, he will easily believe that the highest link of nature's chain must needs be tied to the foot of Jupiter's chair. To conclude, therefore, let no man, upon a weak conceit of sobriety, or an ill-applied moderation, think or maintain, that a man can search too far, or be too well studied in the book of God's word, or in the book of God's works—Divinity or Philosophy." The same sentiment, and almost the same words, may be found in his "Meditation on Atheism," in the "Meditationes Sacræ,"(*f*) and in his "Essay on Atheism" in his Essays. (*g*)

The several passages throughout the current of his writings, in which it appears that Lord Bacon was conversant with God, it would not, I fear, be proper for me in this place to do more than enumerate. They may be found in two volumes, entitled, "Le Christianisme de Francois Bacon, (*h*) and there is scarcely

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(*f*) Vol. I. p. 215. (*g*) Vol. I. p. 53.

The following similar sentiment is in the general corollary to Hume's Essays: "Though the stupidity of men, barbarous and uninstructed, be so great, that they may not see a sovereign Author in the more obvious works of nature, to which they are so much familiarised; yet it scarce seems possible, that any one of good understanding should reject that idea, when once it is suggested to him. A purpose, an intention, a design is evident in every thing; and when our comprehension is so far enlarged as to contemplate the first rise of this visible system, we must adopt, with the strongest conviction, the idea of some intelligent cause or Author."

(*h*) Published at Paris, An. VII.

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a work of Lord Bacon's, in which his religious sentiments may not be discovered. Amongst his minor productions, they may be seen; in the "Meditationes Sacræ:" (*i*) in the "Wisdom of the Ancients;" (*k*) in the "Fables of Pan, (*l*) of Prometheus, (*m*) of Pentheus, (*n*) and of Cupid: (*o*) in various parts of the Essays, but particularly in the Essay on Atheism (*x*) and Goodness of Nature," (*p*) in the "New Atlantis," (*q*) an imaginary college amongst a Christian people, full of piety and humanity, whose prayer is—"Lord God of heaven and earth, thou hast vouchsafed of thy grace, to those of our order, to know thy work of creation, and the secrets of them; and to discern, as far as appertaineth to the generations of men, between divine miracles, works of nature, works of art, and impostures and illusions of all sorts. I do here acknowledge and testify before this people, that the thing which we now see before our eyes, is thy finger, and a true miracle; and forasmuch as we learn in our books, that thou never workest miracles, but to a divine and excellent end, for the laws of nature are thine own laws, and thou exceedest them not but upon great cause, we most humbly beseech thee to prosper this great sign, and to give us the interpretation and use of it in mercy; which thou dost in some part secretly promise by

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(*i*) See Vol I. p. 203, and preface to Vol. I. xxiii.
(*k*) Vol. III. p. 1, and preface, p. 2. (*l*) Vol. III. p. 11.
(*o*) Vol. III. p. 43. (*n*) Vol. III. p. 29.
(*m*) Vol. III. p. 68. (*p*) Vol. I. p. 40.
(*q*) Vol II. p. 336, (*x*) Vol I. p. 53.

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sending it unto us;" and the conditions of entities (*r*) in the *Baconiana*, thus concludes: *This is the Form and Rule of our Alphabet.* May God, the Creator, Preserver, and Renewer of the Universe, protect and govern this work, both in its *ascent* to his glory, and in its *descent* to the good of mankind, for the sake of his mercy and good will to men, through his only Son [Immanuel] *God-with-us.*"

These sentiments are not confined to the minor productions of Lord Bacon but pervade all his works. They may be seen in his tract,—" De principiis atque originibus secundum fabulas Cupidinis et Cœli: sive Parmenidis et Telesii, et præcipue Democriti philosophia, tractata in fabula." The introduction to his " Historia naturalis et Experimentalis, Quæ est *Instaurationis magnæ* pars tertia," concludes thus: " Deus Universi Conditor, conservator, Instaurator, hoc opus, et in ascensione ad Gloriam suam, et in descensione ad bonum humanum, pro suâ erga Homines, Benevolentiâ, et Misericordiâ, protegat et regat, per Filium suum unicum, Nobiscum Deum."(*s*) And in the conclusion of the Preface to the Instauration he says, " Neque enim hoc siverit Deus, ut phantasiæ nostræ somnium pro exemplari

(*r*) Baconiana, 91.

(*s*) May God the Creator, Preserver, and Restorer of the universe, out of his kindness and compassion towards mankind, protect and govern this work, both when ascending towards his glory, and descending to the improvement of man, through his only son,* *God with us.*

* Translation of Immanuel.

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mundi edamus: sed potius benigne faveat, ut apocalypsim, ac veram visionem vestigiorum et sigillorum Creatoris supercreaturas, scribamus. "Itaque tu, Pater, qui lucem visibilem primitias creaturæ dedisti, et lucem intellectualem ad fastigium operum tuorum in faciem hominis inspirasti; opus hoc, quod a tua bonitate profectum, tuam gloriam repetit, tuere et rege. Tu, postquam conversus es ad spectandum opera, quæ fecerunt manus tuæ, vidisti quod omnia essent bona valde; et requievisti. At homo, conversus ad opera, quæ fecerunt manus suæ, vidit quod omnia essent vanitas et vexatio spiritus; nec ullo modo requievit. Quare si in operibus tuis sudabimus, facies nos visionis tuæ et sabbati tui participes. Supplices petimus, ut hæc mens nobis constet: utque novis eleemosynis per manus nostras et aliorum, quibus eandem mentem largieris, familiam humanam dotatam velis. (*t*)

(*t*) May thou, therefore, O Father, who gavest the light of vision as the first fruits of the creation, and hast inspired the countenance of man with the light of the understanding as the completion of thy works, guard and direct this work, which proceeding from thy bounty, seeks in return thy glory. When thou turnedst to look upon the works of thy hands, thou sawest that all were very good and didst rest. But man, when he turned towards the works of his hands, saw that they were all vanity and vexation of spirit and had no rest. Wherefore if we labour in thy works thou wilt make us partakers of that which thou beholdest and of thy sabbath. We humbly pray that our present disposition may continue firm, and that thou mayest be willing to endow thy family of mankind, with new gifts through our hands, and the hands of those to whom thou wilt accord the same disposition.

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The Treatise " De Augmentis Scientiarum," abounds with religious sentiments, and contains two tracts, one upon natural, (*t*) the other upon inspired divinity, " the sabbath and port of all mens' labours." (*u*) In the *Novum Organum*, under the head of Instances of Divorce, (*x*) there is the following observation: " Atque in radiis opticis, et sonis, et calore, et aliis nonnullis operantibus ad distans, probabile est media corpora disponi et alterari: eò magis, quòd requiratur medium qualificatum ad deferendam operationem talem. At magnetica illa siue Coitiua virtus admittit media tanquam adiaphora, nec impeditur virtus in omnigeno medio. Quod si nil rei habeat virtus illa aut actio cum corpore medio, sequitur quod sit virtus aut actio naturalis ad tempus nonnullum, et in loco nonnullo, subsistens sine corpore: cum neque subsistat in corporibus terminantibus, nec in mediis. Quare actio magnetica poterit esse instantia diuortii circa naturam corpoream, et actionem naturalem. Cui hoc adjici potest tanquam corollarium aut lucrum non prætermittendum: viz. quòd etiam secundùm sensum philosophanti sumi possit probatio, quòd sint entia et substantiæ separatæ et incorporeæ. Si enim virtus et actio naturalis, emanans á corpore, subsistere possit aliquo tempore,

(*t*) Book 3, c. 2, of the Treatise De Augmentis, and in the Advancement of Learning, see Vol. II. of this work, page 128.

(*u*) Book ix. 6, of the Treatise De Augmentis, and Vol. II. page 299, of this work.

(*x*) Instance, 37.

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et aliquo loco, omninò sine corpore; propè est ut possit etiam emanare in origine suâ à substantiâ incorporeâ. Videtur enim non minus requiri natura corporea ad actionem naturalem sustentandam et deuehendam, quam ad excitandam aut generandam." (*w*)

Such are specimens of Lord Bacon's religious sentiments, which may be found in different parts of his works; but they are not confined to his intended publications. In a letter to Mr. Mathew,

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(*w*) Of the conclusion of this passage I subjoin two translations, the one by Dr. Shaw, the other by my excellent friend, to whom I am indebted for the translation of the *Novum Organum*.

SHAW'S TRANSLATION.

To this may be added, by way of corollary, the following considerable discovery, viz. that by philosophizing, even according to sense, a proof may be had of the existence of separated and incorporeal beings and substances; for if natural virtues and actions flowing from a body may subsist without a body for some time in space or place, it is possible that such virtues or actions may proceed originally from an incorporeal substance: for a corporeal nature seems no less required to support and convey, than to excite and generate a natural action.

NEW TRANSLATION.

To which we may add as a corollary and an advantage not to be neglected, that it may be taken as a proof of essence and substance being separate and incorporeal, even by those who philosophize according to the senses. For if natural power and action emanating from a body can exist at any time and place entirely without any body, it is nearly a proof that it can also emanate originally from an incorporeal substance. For a corporeal nature appears to be no less necessary for supporting and conveying than for exciting or generating natural action.

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imprisoned for religion, he says, "I pray God, that understandeth us all better than we understand one another, contain you, even as I hope he will, at the least, within the bounds of loyalty to his majesty, and natural piety towards your country. And I intreat you much, sometimes to meditate upon the extreme effects of superstition in this last powder treason; fit to be tabled and pictured in the chambers of meditation, as another hell above the ground: and well justifying the censure of the heathen, that superstition is far worse than atheism; by how much it is less evil to have no opinion of God at all, than such as is impious towards his divine majesty and goodness. Good Mr. Matthew, receive yourself back from these courses of perdition. Willing to have written a great deal more, I continue," etc. In the decline of his life, in his letter (s) to the Bishop of Winchester, he says, "Amongst consolations, it is not the least to represent to a man's self like examples of calamity in others. For examples give a quicker impression than argu-

(s) This letter was published in Letters and Remains by Stephens, 1734, with the following note: "The following letter to the most learned Dr. Andrews, bishop of Winchester, was written by my lord St. Alban, in the year 1622, and in the nature of a dedication, prefixed before his dialogue, touching a Holy War; which was not printed, at least correctly, till seven years after, by the care of Dr. Rawley. But because it has been found amongst his lordship's letters and other books, separated from that treatise, and chiefly, because it gives some account of his writings, and behaviour after his retirement, I thought it very proper to insert it in this place."—See page 112 of this volume.

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ments; and besides, they certify us, that which the Scripture also tendereth for satisfaction; "that no new thing is happened unto us." "In this kind of consolation I have not been wanting to myself, though as a Christian, I have tasted, through God's great goodness, of higher remedies;" and his last will thus begins: "First, I bequeath my soul and body into the hands of God by the blessed oblation of my Saviour; the one at the time of my dissolution, the other at the time of my resurrection. For my burial, I desire it may be in St. Michael's church, near St. Alban's: there was my mother buried, and it is the parish church of my mansion-house of Gorhambury, and it is the only Christian church within the walls of Old Verulam."

PRAYERS. (*a*)

Of the prayers contained in this volume, the first (*u*), entitled, "A Prayer, or Psalm, made by the

(*a*) In Sloane's MSS. 23, there is a MS. prayer.

(*u*) Although the first part of the Resuscitatio was published by Dr. Rawley, and the second part (which contains this prayer) was published in his name, and during his life, it contains matter of which Lord Bacon was not the author. Archbishop Tenison, in his Baconiana, p. 59, speaking of the apopthegms, says, "Besides, his Lordship hath received much injury by late editions, of which some have much enlarged, but not at all enriched the collection, stuffing it with tales and sayings, too infacetious for a ploughman's chimney-corner." And, in a note he adds, "Even by that added (but not by Dr. Rawley) to the Resuscitatio, Ed. III." I mention this fact, not as intending to infer that this prayer was not "made by Lord Bacon," but that the evidence may be duly weighed. B. M.

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Lord Chancellor of England," is in the Resuscitatio,(x) The second prayer, (y) entitled, " A Prayer made and used by the Lord Chancellor Bacon," is in the Remains; and the two remaining prayers, " The Students Prayer," (z) and " The Writers Prayer,"(z) are in the *Baconiana.* (z)

In the Tatler, No. 267, it is, upon what authority I know not, thus mentioned: " I have hinted in some former papers, that the greatest and wisest of men in all ages and countries, particularly in Rome and Greece, were renowned for their piety and virtue. It is now my intention to show, how those in our own nation, that have been unquestionably the most eminent for learning and knowledge, were likewise the most eminent for their adherence to the religion of their country. I might produce very shining examples from among the clergy; but because priestcraft is the common cry of every cavilling, empty scribbler, I shall shew that all the laymen who have exerted a more than ordinary genius in their writings, and were the glory of their times, were men whose hopes were filled with immortality, and the prospect of future rewards; and men who lived in a dutiful submission to all the doctrines of revealed religion. I shall in this paper only instance Sir Francis Bacon. I was infinitely pleased to find among the works of this extraordinary man a prayer of his own composing, which, for the elevation of thought, and greatness of expression, seems rather the devotion of an angel than a man. His principal fault seems to have been the excess of that virtue which covers a multitude of faults. This betrayed him to so great an indulgence towards his servants, who made a corrupt use of it, that it stripped him of all those riches and honours which a long series of merits had heaped upon him. But in this prayer, at the same time that we find him prostrating himself before the great mercy-seat, and hum-

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(x) See page 1, of this vol. (y) Page 5, ditto.

(z) Baconiana 181, and 8 and 9 of this vol.

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THE CONFESSION OF FAITH.

Of the authenticity of this Essay no doubt can be entertained; it was published in a separate tract in 1641, (*d*) and by Dr. Rawley in the *Resuscitatio*, (*e*) by whom it was translated into Latin, and published in the *Opuscula*. (*f*) In the *Resuscitatio*, Dr. Rawley, in his address to the Reader, says, "For that treatise of his Lordship's, inscribed, A Confession of the Faith, I have ranked that, in the close of this whole volume: thereby to demonstrate to the world that he was a master in divinity, as well as in philosophy or politics; and that he was versed no less in the saving knowledge,

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bled under afflictions, which at that time lay heavy upon him, we see him supported by the sense of his integrity, his zeal, his devotion, and his love to mankind; which give him a much higher figure in the minds of thinking men, than that greatness had done from which he was fallen. I shall beg leave to write down the prayer itself, with the title with it, as it was found amongst his Lordship's papers, written in his own hand."

(*d*) The following is an exact transcript of the title page:— "The Confession of Faith," written by Sir Francis Bacon, printed in the year 1641. In the title page, there is a wood engraving of Sir Francis Bacon: it is a thin 4to of twelve pages, without any printer's name. Mr. D'Israeli kindly lent me a copy. It is similar, but not the same as the present copy. Of the Confession of Faith there are various MSS. in the British Museum; Sloane's 23, 2 copies; Harleian, Vol. 2, 314; Vol. 3, 61: Hargrave's, page 62; the MSS. Burch, 4263 is, I suspect, in Lord Bacon's own writing, with his signature.

(*e*) 1657.

(*f*) Opuscula varia posthuma. Londini, ex officina, R. Danielis, 1658.

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than in the universal and adorning knowledges; for though he composed the same many years before his death, yet I thought that to be the fittest place, as the most acceptable incense unto God of the faith wherein he resigned his breath; the crowning of all his other perfections and abilities; and the best perfume of his name to the world after his death." In his Life he says, "He was able to render a reason of the hope which was in him; which that writing of his of the Confession of the Faith doth abundantly testify;" and in the address to the Reader, in the *Opuscula*, he says, "Supererat tandem scriptum illud Confessionis Fidei; quod auctor ipse, plurimis ante obitum annis, idiomate Anglicano concepit: operæ pretium mihi visum est Romana civitate donare; quo non minus exteris, quam popularibus suis, palam fiat, qua fide imbutus, et quibus mediis fretus, illustrissimus heros, animam Deo reddiderit; et quod theologicis studiis, æque ac philosophicis et civilibus, cum commodum esset, vacaverit. Fruere his operibus, et scientiarum antistitis olim Verulamii ne obliviscaris. Vale."

This tract is thus noticed by Archbishop Tenison in the "Baconiana." (*g*) "His Confession of Faith," written by him in English, and turned into Latin by Dr. Rawley; upon which there was some correspondence between Dr. Maynwaring and Dr. Rawley, (*h*) as the archbishop, in describing the

(*g*) Baconiana, 72.

(*h*) The following is in the "Baconiana," p. 209:—

"A letter written by Dr. Roger Maynwaring, to Dr. Rawley concerning the Lord Bacon's Confession of Faith.

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letters to Lord Bacon,(*d*) says, "The second is, a letter from Dr. Maynwaring to Dr. Rawley, concerning his lordship's 'Confession of Faith.' This is that Dr.

"SIR,

"I have, at your command, surveyed this deep and devout tract of your deceased lord, and send back a few notes upon it.

"In page 413, l. 5, (of this volume) are these words:

"'I believe that God is so holy, pure, and jealous, that it is impossible for him to be pleased in any creature, though the work of his own hands; so that neither angel, man, nor world, could stand, or can stand, one moment in his eyes, without beholding the same in the face of a mediator; and therefore that before him, with whom all things are present, the Lamb of God was slain before all worlds; without which eternal counsel of his, it was impossible for him to have descended to any work of creation; but he should have enjoyed the blessed and individual society of three persons in Godhead only for ever.'

"This point I have heard some divines question, whether God, without Christ, did pour his love upon the creature? and I had sometimes a dispute with Dr. Sharp* of your university, who held that the emanation of the Father's love to the creature was immediate. His reason, amongst others, was taken from that text, 'So God loved the world, that he gave his only begotten Son.' Something of that point I have written amongst my papers, which on the sudden I cannot light upon. But I remember that I held the point in the negative, and that St. Austin, in his comment on the fifth chapter to the Romans, gathered by Beda, is strong that way.

"In page 413, line penult, are these words:

"'God, by the reconcilement of the Mediator, turning his countenance towards his creatures, (though not in equal light

(*d*) Baconiana, 103.

* The same, I think, who was committed to the Tower, having taught Hoskins his allusion to the Sicilian Vespers. See Reliqu. Wotton, p. 434. Dr. Tenison.

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Maynwaring, whose sermon upon Eccles. viii. 2, etc. gave such high offence, about one hundred and fifty years ago. " For some doctrines, which he noteth in his lordship's confession, the reader ought to call to

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and degree) made way unto the dispensation of his most holy and secret will, whereby some of his creatures might stand and keep their state; others might, possibly, fall, and be restored; and others might fall, and not be restored in their estate, but yet remain in being, although under wrath and corruption; all with respect to the Mediator; which is the great mystery, and perfect centre of all God's ways with his creatures; and unto which all his other works and wonders do but serve and refer.'

" Here absolute reprobation seems to be defended, in that the will of God is made the reason of the not-restitution of some; at leastwise his Lordship seems to say, that 'twas God's will that some should fall, unless that may be meant of voluntas permissiva (his will of permission).

" In page 414, l. 10, where he saith, (amongst the generations of men he elected a small flock,) if that were admitted (of fallen men,) it would not be amiss; lest any should conceive that his Lordship had meant, the decree had passed on massa incorrupta, (on mankind considered before the fall).

" In page 415, l. 8, are these words:

" ' Man made a total defection from God, presuming to imagine, that the commandments and prohibitions of God, were not the rules of good and evil, but that good and evil had their own principles and beginnings.'

" Consider whether this be a rule universal, that the commands and prohibitions of God are the rules of good and evil. For, as St. Austin saith, many things are prohibita quia mala (for that reason forbidden, because they are evil:) as those sin which the schools call specifical.

" In page 415, l. antepen. are these words:

" ' The three heavenly unities exceed all natural unities.

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mind, the times in which his lordship wrote them, and the distaste of that court against the proceedings of Barnevelt, whose state-faction blemished his creed.

Of this tract there are various MSS. (*a*) in the

That is to say, the unity of the three Persons in Godhead, the unity of God and man in Christ, and the unity of Christ and the church; the Holy Ghost being the worker of both these latter unities; for by the Holy Ghost was Christ incarnate, and quickened in flesh; and by the Holy Ghost is man regenerate, and quickened in spirit.'

"Here two of the unities are ascribed to the Holy Ghost. The first seems excluded; yet divines say, that Spiritus Sanctus & amor, & vinculum Patris & Filii, (the Holy Ghost is the love and the bond of the Father and the Son).

"In page 416, l. 12, are these words:

"'Christ accomplished the whole work of the redemption and restitution of man to a state superior to the angels.

"This (superior) seems to hit upon that place, ἰσάγγελοι Luke xx. 36, which argues but equality. Suarez (De Angelis, lib. 1. cap. 1.) saith, that angels are superior to men, quoad gradum intellectualem, & quoad immediatam habitationem ad Deum, (both in respect of the degree of their intellectual nature, and of the nearness of their habitation to God). Yet St. Austin affirmeth, naturam humanam in Christo perfectiorem esse angelica, (that the human nature in Christ is more perfect than the angelical). Consider of this. And thus far, not as a critic, or corrector, but as a learner. For,

Corrigère, res est tanto magis ardua, quanto
Magnus, Aristarcho major, Homerus erat.

In haste. Your servant,

ROGER MAYNWARING."

(*a*) *Sloanes*, 2 copies, 23 Cat. *Harleian*, vol. 2, 314—vol. 3, 61. *Hargrave's* p. 62.

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British Museum, and one apparently in Lord Bacon's hand writing. (*b*) It is stated in one of the MSS. to have been written before or when Sir Francis Bacon was Solicitor General, (*c*) and in the Remains it is entitled, "Confession of Faith, written by Sir Francis Bacon, knight, Viscount St. Albans, about the time he was Solicitor General to our late Sovereign Lord King James." (*d*)

(*b*) MS. Burch; No. 4263.

(*c*) Sloane's, 23, and see in Rawley's observations, ante xiv. where he says, "though he composed the same many years before his death," and the same expression is in the passage from the Opuscula.

(*d*) This tract was republished in 1757. A Confession of Faith, written by the Right Honourable Francis Bacon, Lord Verulam, republished with a Preface on the Subject of Authority in Religious Matters, and adapted to the Exigency of the present Times. London, printed for W. Owen, at Temple-Bar, 1757, 8vo. pp. 26. and in the second volume of Butler's Reminiscences, recently published, in page 232, there is a letter from Dr. Parr containing the following, "You know there is no doubt as to the authenticity of the Confession of Faith, ascribed to Lord Bacon. I am perplexed with it. Was he serious? I mean serious all through? Does he mean it for a tentamen? What inference would Hume have drawn from it?" And in a manuscript kindly communicated to me by Mr. Barker, the doctor says "that Bacon admitted the received doctrine of the Trinity, is obvious, from the prayer made by him when Chancellor of England, and from various passages of the most unequivocal and emphatical kind in his Confession of Faith."

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AN ADVERTISEMENT TOUCHING THE CONTROVERSIES OF THE CHURCH OF ENGLAND (*a*).

This was first published in the year 1641, without the author's name (*b*). The following is the title:

A Wise and Moderate Discourse,
concerning
Church Affaires,
As it was written, long since, by the famous Authour of those Considerations, which seem to have some reference to this,
Now published for the common good.

Imprinted in the yeere 1641.

It was next published with the present title, in the Resuscitatio.

(*a*) Page 28 of this volume.

(*b*) There is a copy in the British museum, and MSS. Ays. 4263.

In Blackburne's edition, vol. I. 192, he thus notices this tract: "Next follows an Advertisement touching the controversies of the Church of England, p. 418. This treatise was originally printed in the year 1641, without the author's name and under a different title: called, "A wise and moderate discourse concerning Church affairs; as it was written long since, by the famous author of those considerations, which seem to have some reference to this." It is plain from p. 428, that it was wrote in the reign of Q. Elizabeth. Dr. Sancroft had collated and corrected this piece in more than an hundred places: and I am to ask the reader's pardon for mislaying the copy containing these his farther emendations.

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In this tract upon Church Controversies, an arrangement, although not formally declared, may, as in the Sylva Sylvarum, (*c*) easily be perceived. (*d*) The method, with a few extracts well worthy the consideration of ecclesiastical controversialists, is as follows :—

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p. 419, l. 23, parts.	r. some things, his.
p. 420, l. 6, zeal.	r. hate.
l. 38, resemble.	r. agree.
p. 423, l. 33.	r. pretend zeal.
p. 424, l. 39.	r. seduce the people.
p. 428, l. 3, exercise.	r. waste.
p. 429, l. 18.	r. grope for.

So that I conceive abundant justice is done to this part of our noble author's works.

(*c*) Dr. Rawley, in his address to the Reader, in the Sylva Sylvarum, says—"I have heard his lordship say also, that one great reason why he would not put these particulars into any exact method, (though he that looketh attentively into them shall find that they have a secret order,) was, because he conceived that other men would now think that they could do the like."

(*d*) The following is an analysis of this subject, at all times of importance but particularly to a Christian in Christian Controversy.

1. Religious controversies will exist, and particularly in times of peace.
2. Nature of Religious Controversies.
3. Virtues of Religious Controversies.
    1. Christian Forbearance.
    2. Christian Demeanor.
    3. Christian Language.
4. Vices in Controversies.

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§ I.

I. RELIGIOUS CONTROVERSIES WILL EXIST, AND PARTICULARLY IN TIMES OF PEACE.

When the fiery trial of persecution ceaseth, there succeedeth another trial, which, as it were, by contrary blasts of doctrine doth sift and winnow men's faith.

§ II.

II. NATURE OF RELIGIOUS CONTROVERSIES.

1. High nature.

The high mysteries of faith - - - - 29

The great parts of the worship of God - - 30

2. Minor nature, ceremonies, and things indifferent, or those parts of religion which pertain to time, not to eternity - - - - - 30

§ III.

III. VIRTUES IN CHRISTIAN CONTROVERSIES.

"Qui pacem tractat non repetitis conditionibus dissidii, is magis animos hominum dulcedine pacis fallit, quam aequitate componit." - - 32

1. CHRISTIAN FORBEARANCE.

Let every man be swift to hear, slow to speak, slow to wrath - - - 29

2. CHRISTIAN DEMEANOR.

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1. The Vices of the Clergy.

2. Nature and Humour of Men 41

3. Detestation of former Heresy - - 42

4. Imitation of Foreign Churches - - 44

2. In their extension - - - 47

Conduct of Reformers

Anti-reformers

3. Unbrotherly Proceedings - - - 50

By the Possessors of Church Government.

By the opposers.

4. Improper Publications - - - - 57

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3. CHRISTIAN LANGUAGE - - - 30

If we did but know the virtue of silence and slowness to speak, our controversies of themselves would close and grow up together - 31

Brother, if that which you set down as an assertion you would deliver by way of advice, there were reverence due to your counsel, whereas faith is not due to your affirmation.

A feeling Christian will express in his words a character of zeal or love: although we are not to contend coldly about things which we hold dear (a) - - - - - 32

Impropriety of wit in Religious Controversy, "Non est major confusio, quam serii et joci." (b)

A fool should be answered, but not by becoming like unto him - - - 33

§ IV.

IV. VICES IN CONTROVERSIES.

1. IN THE OCCASIONS.

1. The Vices of the Clergy

The imperfections in the conversation and government of those which have chief place in the Church, have ever been principal causes and motives of schisms and divisions. For whilst the bishops and governors of the Church continue full of knowledge and good works; whilst they deal with the secular states in all liberty and resolution, according to the majesty of their calling, and the precious care of souls imposed upon them, so long the Church is "situated" as it were "upon an hill;" no man maketh question of it, or seeketh to depart from it. The humility of the friars

(a) Fuller says, "The Holy Ghost descended not in the spirit of a vulture, but in the spirit of a dove."

(b) See Essay of Discourse, Vol. I. p. 118.

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did, for a great time, maintain and bear out the irreligion of bishops and prelates - - 37
2. Prejudices of particular men - - 40
The universities are the seat or the continent of this disease, from whence it is derived into the realm - - - 41
3. Detestation of former heresy - - - 42
This manner of apprehension doth in some degree possess many in our times. They think it the true touchstone to try what is good and evil, by measuring what is more or less opposite to the institutions of the church of Rome, be it ceremony, be it policy, or government; yea, be it other institutions of greater weight, that is ever most perfect which is removed most degrees from that Church; and that is ever polluted and blemished, which participateth in any appearance with it. This is a subtile and dangerous conceit for men to entertain; apt to delude themselves, more apt to delude the people, and most apt of all to calumniate their adversaries - 43
4. Imitation of Foreign Churches - - 44
2. IMPROPER EXTENSION OF CONTROVERSY.
1. Conduct of Reformers - - - 47
2. Conduct of Anti-reformers - - 48
Again, to my lords the bishops I say, that it is hard for them to avoid blame, in the opinion of an indifferent person, in standing so precisely upon altering nothing: "leges, novis legibus non recreatæ, acescunt;" laws, not refreshed with new laws, wax sour. "Qui mala non permutat, in bonis non perseverat:" without change of ill, a man cannot continue the good. To take away many abuse, supplanteth not good orders, but establisheth them. "Morosa moris retentio, res turbulenta est, æque ac novitas;" contentious retaining of customs is a turbulent thing, as well as innovation. A good husband

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is ever pruning in his vineyard or his field; not unseasonably, indeed, not unskilfully, but lightly; he findeth ever somewhat to do 49

I pray God to inspire the bishops with a fervent love and care of the people; and that they may not so much urge things in controversy, as things out of controversy, which all men confess to be gracious and good 50

3. Unbrotherly proceedings.

1. By the possessors of church government 51

Their urging of subscription to their own articles, is but "lacessere, et irritare morbos Ecclesiæ," which otherwise would spend and exercise themselves. "Non consensum quærit sed dissidium, qui, quod factis præstatur, in verbis exigit." He seeketh not unity, but division, which exacteth that in words, which men are content to yield in action.

I know restrained governments are better than remiss; and I am of his mind that said, Better is it to live where nothing is lawful, than where all things are lawful. I dislike that laws should not be continued, or disturbers be unpunished: but laws are likened to the grape, that being too much pressed yields an hard and unwholesome wine.

2. The opposers of church government.

1. Supposition of exclusive perfection - 55
2. Their manner of preaching - - 55
3. In not acting equally in liberty or restraint 56
4. Indiscriminate statements - - 57
5. Mode of handling Scripture - - 58
6. Great reliance on trifles - - 58

4. Improper publications - - 59

The press and pulpit should be freed and discharged of these contentions; neither promotion on the one side, nor glory and heat on the other side, ought to continue those challenges and cartels at the cross.

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THE CHARACTERS OF A BELIEVING CHRISTIAN IN PARADOXES AND SEEMING CONTRADICTIONS. (m)

This tract, published as it seems in the year 1645, was in 1648 inserted in the Remains, and in 1730 in Blackburn's edition of Lord Bacon's works. (a) Its authenticity seems to be very doubtful. It was inserted in Blackburn's edition, after the following notice :—" The following fragments were never acknowledged by Dr. Rawley, among the genuine writings of the Lord Bacon; nor dare I say that they come up to the spirit of penetration of our noble author. However, as they are vouched to be authentic in an edition of the Remains of the Lord Verulam, printed 1648; and as Archbishop Sancroft has reflected some credit on them by a careful review, having in very many instances corrected and prepared them for the press, among the other unquestioned writing of his lordship; for these reasons I have assigned them this place, and left every reader to form his own judgment about their importance:" and in a letter from Dr. Parr to his legatee and biographer, E. H. Barker, the doctor says, "it is, however, well known, that some of his fragments were not acknowledged by Dr. Rawley to be genuine, though vouched to be

(m) In page 21 of this volume.

(a) In Dr. Parr's annexed letter, it appears to have been published in 1645; and in Vol. I. of Blackburn's edition, he says, speaking of Archbishop Sancroft, to the characters of a believing Christian in paradoxes, &c. compared with the other copy, printed in 1645, I have not been able to see a copy of the tract published in 1645.—B. M.

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authentic in an edition of the Remains of Lord Verulam, printed in 1648, and though examined, corrected, and prepared for the press by Archbishop Sancroft among the other unquestionable writings of Bacon. Among those fragments are the Characters of a believing Christian, in paradoxes and seeming contradictions, compared with the copy printed Lond. 1645. The paradoxes are thirty-four; but it is sufficient for my purpose to quote the 2d and 3d. After frequent and most attentive perusal, I am convinced that these Fragments were written by Bacon, and intended only for a trial of his skill in putting together propositions, which appear irreconcileable, and that we ought to be very wary in drawing from such a work any positive conclusions upon the real and settled faith of Lord Bacon. Bacon perhaps was sincere, when he said, 'I had rather believe all the fables in the Legend, and the Talmud, and the Alcoran, than that this universal frame is without a mind.' But to many parts of the paradoxes we may apply his remark upon the fool, who *said* in his heart, but did not *think* 'There is no God.' He rather said these things for a trial of skill, as the fool talked by rote, than that he really believed them, or was persuaded of them. (*a*)

(*a*) See Bacon's Essay on Atheism, vol. 1, p. 53.

Dr. Parr does not speak with as much confidence in a letter to Mr. C. Butler, published in the second volume of Butler's Reminiscences, page 233, where he says, "But now comes a real difficulty. What shall we say to the 'Character of a believing Christian in paradoxes and seeming contradictions?' Here I

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I subjoin the evidence, external and internal, which I have been able to discover in favour and in opposition to their authenticity.

The following are the external reasons against their authenticity—1st, Soon after Lord Bacon's death there were various spurious works ascribed to him, with which the *Remains* abound (*b*).—2dly, This

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am quite at a loss to determine. If an ingenious man means to deride the belief of Christianity, could he have done it more effectually than in the work just now alluded to? Mr. Hume would say—No. There is some uncertainty as to the authenticity of this little tract. I suspect that Bacon meant to try his strength, and then to return quietly to the habitual conviction of his mind, that Christianity is true."

(*b*) In Rawley's Epistle to the Reader in the *Resuscitatio*, he says, " For some of the pieces, herein contained, his Lordship did not aim at the publication of them, but at the preservation only, and prohibiting them from perishing, so as to have been reposed in some private shrine, or library: but now, for that, through the loose keeping of his Lordship's papers, whilst he lived, divers surreptitious copies have been taken; which have since employed the press with sundry corrupt and mangled editions; whereby nothing hath been more difficult than to find the Lord Saint Alban in the Lord Saint Alban; and which have presented (some of them) rather a fardle of nonsense, than any true expressions of his Lordship's happy vein; I thought myself in a sort tied to vindicate these injuries and wrongs done to the monuments of his Lordship's pen; and at once, by setting forth the true and genuine writings themselves, to prevent the like invasions for the time to come." And Archbishop Tenison says, " This general acceptance of his works has exposed him to that ill and unjust usage which is common to eminent writers. For on such are fathered, sometimes spurious treatises; sometimes most corrupt copies of good originals; sometimes their essays and first thoughts upon good subjects, though laid aside

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Tract is not recognised by Dr. Rawley, who in his address to the Reader in his *Resuscitatio*, does not mention it amongst the theological works which he enumerates, although he says, " I have compiled in one whatsoever bears the true stamp of his Lordship's excellent genius, and hath hitherto slept, and been suppressed, in this present volume, not leaving any thing to a future hand, which I found to be of

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by them unprosecuted and uncorrected; and sometimes the very toys of their youth, written by them in trivial or loose arguments, before they had arrived either at ripeness of judgment, or sobriety of temper. The veriest straws (like that of Father Garnet) are shewn to the world as admirable reliques, if the least strokes of the image of a celebrated author, does but seem to be upon them. The press hath been injurious in this kind to the memory of Bishop Andrews, to whom it owed a deep and solemn reverence. In such an unbecoming manner it hath dealt, long ago, with the very learned and ingenious author of the *Vulgar Errors*. Neither hath the Lord Bacon gone without his share in this injustice from the press. He hath been ill dealt with in the letters printed in the Cabala, and Scrinia, under his name: for Dr. Rawley professed, that though they were not wholly false, yet they were very corrupt and embased copies. This I believe the rather, having lately compared some original letters with the copies in that collection, and found them imperfect. And to make a particular instance; in comparing the letter of Sir Walter Raleigh to Sir Robert Car, of whom a fame had gone that he had begged his estate; I found no fewer than forty different, of which some were of moment. Our author hath been still worse dealt with, in a pamphlet in octavo, concerning the trial of the Earl and Countess of Somerset: and likewise in one in quarto, which beareth the title of Bacon's Remains, though there cannot be spied in it, so much as the ruins of his beautiful genius."

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moment, and communicable to the public, save only some few Latin works, which, by God's favour and sufferance, shall soon after follow." And in another part of the same address he says, "I thought myself in a sort tied to vindicate these injuries and wrongs done to the monuments of his Lordship's pen; and at once, by setting forth the true and genuine writings themselves, to prevent the like invasions for the time to come."—3dly, It is not noticed by Archbishop Tenison, who published the *Baconiana* in 1679, in which he says, "His lordship's writings upon pious subjects are only these: his Confession of Faith, the Questions about an Holy War, and the Prayers in these Remains; and a translation of certain of David's Psalms, into English verse.(*a*)—4thly, There is not any MSS. of these Paradoxes.(*b*)

The external reasons in favor of their authenticity are, 1st, They are published in the *Remains*, in 1648, and, although they are not recognised, they are not expressly disowned either in 1657 by Dr. Rawley, or in 1679 by Archbishop Tenison, who does expressly repudiate (*c*) other works ascribed to Lord Bacon. Whether this silence is negative evidence that the Paradoxes are authentic, or that the friend and admirer of Lord Bacon, after having discredited the *Remains*, did not deem the Paradoxes entitled to a particular refutation, is

(*a*) Baconiana, page 72.

(*b*) I venture to assert this for I have not been able to find a MSS. I should be happy to have my error corrected.

(*c*) See note (*b*) ante xxviii.

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a question not free from doubt, if it can be supposed that Dr. Rawley and the Archbishop were so insincere as, knowing their reality, to express their opinion of Lord Bacon's religious sentiments, and to censure the author of the *Remains*, without doing him the justice to acknowledge that the Paradoxes were authentic. 2dly, Dr. Rawley and Archbishop Tenison admit that there were other MSS. in existence. (*d*) 3dly. The authenticity of the paradoxes is supposed to have been acknowledged by Archbishop Sancroft; but upon enquiry it will, perhaps, appear that the Archbishop only corrected the copy which was inserted in the *Remains*, by comparing it with the first publication in 1645. (*e*).

(*d*) See note b, ante xxviii.

(*e*) Blackburn, in the fourth volume of his edition of Bacon, A. D. 1730, p. 438, says, "Archbishop Sancroft has reflected some credit on them by a careful review, having in very many instances corrected and prepared them for the press: among the other unquestioned writings of his lordship, I annex some of the passages from Blackburn, where Archbishop Sancroft is mentioned. "Our noble author's letters in the 'Resuscitatio' are in full credit; and yet these are in many instances corrected by Dr. Sancroft, and that uncontestably from MSS. because the author's subscription, under that prelate's hand, is in several particulars added, as N. X. 'Your lordship's most humbly in all duty. N. XI. Your lordship's in all humbleness to be commanded.' I say I conceive it evident, that these subscriptions to the printed copy of 1657, do ascertain the additions to be made from original MSS. since they could not be added upon judgment or conjecture, but must be inserted from authority. And this gives sanction to the emendations of these letters contained in the 'Resuscitatio;' so that I may presume to

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Such is the external evidence. The internal evidence is either from the thought, or the mode in which the thought is expressed.

The reasons against the authenticity of the Paradoxes, from the nature of the thought, are—1st. If a spirit of piety (*w*) pervades the Paradoxes,

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think this present edition is even more exact than what Dr. Rawley himself published. Blackburn, Vol. I. p. 193.

In page 458, of vol. iv. he says, "I have added some fragments from the quarto edition of the remains printed in 1648. That copy has been deservedly treated with great indignation and contempt being notoriously printed in a surreptitious and negligent manner. However, I do not remember a single page in this scandalous edition, excepting these fragments and the essay of a king, which does not appear in a more correct dress in some part or other of our noble author's works. This seems to give them a little credit; and Dr. Sancroft having corrected them with so much diligence, as to distinguish where he has done it from printed copies, I have some cause to apprehend that the other copies were amended by unquestionable MSS. of our noble author. The order they appear in is, 1. An *Explanation* what manner of persons those should be, that are to execute the power or ordinance of the king's prerogative, p. 3. This is corrected in very many places. 2. Short notes for civil *conversation*, p. 6. interlined in many places, with apt divisions, not observed in the edition of 1648. 3. An *Essay* on Death, p. 7. This is likewise corrected in very many places, and subdivided as if done from MSS. and made a new work. 4. The Characters of a believing *Christian*, in paradoxes and seeming contradictions. This in terms of abatement under the Archbishop's own hand stands thus: *Compared with the other copy, printed Lond. anno*, 1645. 5. A Prayer, corrected only in two places, which I must confess does not appear to be cast in the same mould with that printed above, p. 447.

(*w*) In the year 1762, the third edition of a penny tract

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it seems to differ from the spirit which moved upon the mind of Lord Bacon ; (*a*) and if the MSS.

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of the Characteristics was published. The following is a copy of the title page of this tract: Characteristics of a Believing Christian in Paradoxes and Seeming Contradictions. By Francis Bacon, Baron of Verulam, Viscount of St. Alban, and Lord High Chancellor of England, with a Preface by a Clergyman. The Third Edition. London, Printed by M. Lewis, in Paternoster Row, 1762, (Price one Penny.) The following is the Preface: In order to prevent a misconstruction of the following paradoxes, it may be needful to inform the reader, that when rightly considered, they are no ways ludicrous, sarcastical or prophane, but solid, comfortable and godly truths, taught by the Holy Ghost in the school of experience, and well understood by them who are truly Christians. I do not say, that every *babe* in Christ can understand them all, but this I think I may venture to affirm, he that understands none of them, hath not yet learned his A. B. C. in the school of Christ. But if any should ask me, why I choose to publish his lordship's paradoxes rather than any other? I answer—1st, Because, though very comprehensive, yet they are but short, and may therefore be easily purchased by the poorer sort of christians. 2ndly, That the *minute* philosophers and *ignoble* gentlemen of our day might hence be taught, that a fine gentleman, a sound scholar, and a great philosopher, may be a christian; since we find not only *Paul*, a *Justin Martyr*, &c. but even in our own nation, so great a philosopher as my *Lord Bacon*, espousing and confessing the christian verity. In a word, reader, if thou understandest these few paradoxes, bless God for them; if thou understandest them not, thou mayest, like the *Eunuch*, call in some *Philip* to thy assistance: but above all permit me to advise thee to ask of the Father of Lights, who giveth wisdom liberally and upbraideth not. I am, for Christ's sake, thy Friend and Servant, F. GREEN.

(*a*) Take any, for instance Paradox 34.—"His Advocate, his

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of this Essay, of which there is not any evidence, had been found amongst the papers of Lord Bacon, would it not be more probable that they were the effusion of one of his pious friends, Herbert for instance, than that they were Lord Bacon's own production? 2d. If the Paradoxes are supposed to be polluted by an under current of infidelity, the very supposition is evidence against their authenticity, "for this lord was religious, and was able to render a reason of the hope which was in him. (*x*) He repaired fre-

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Surety shall be his Judge; his mortal part shall become immortal; and what was sown in corruption and defilement shall be raised in incorruption and glory; and a finite creature shall possess an infinite happiness. Glory be to God."—*Compare this with his prayer.* "Remember, O Lord, how thy servant hath walked before thee: remember what I have first sought, and what hath been principal in my intentions. I have loved thy assemblies: I have mourned for the divisions of thy Church: I have delighted in the brightness of thy sanctuary. This vine which thy right hand hath planted in this nation, I have ever prayed unto thee, that it might have the first and the latter rain; and that it might stretch her branches to the seas and to the floods. The state and bread of the poor and oppressed have been precious in mine eyes: I have hated all cruelty and hardness of heart: I have, though in a despised weed, procured the good of all men. If any have been my enemies, I thought not of them; neither hath the sun almost set upon my displeasure; but I have been as a dove, free from superfluity of maliciousness. Thy creatures have been my books, but thy Scriptures much more. I have sought thee in the courts, fields, and gardens, but I have found thee in thy temples."

(*x*) So in the Religio Medici, Sir Thomas Brown says, "For my religion, though there be several circumstances that might

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quently to the service of the church, to hear sermons, to the administration of the sacrament of the blessed body and blood of Christ, and died in the true faith, established in the Church of England." (*a*)

The internal evidence against the authenticity of the Parodoxes from the style is, that—1st. They in style, are in opposition to the whole tenor of Lord Bacon's works, which endeavours to make doubtful things clear, not clear things doubtful. (*p*)

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perswade the world I have none at all, as the generall scandal of my profession, the natural course of my studies, the indifferency of my behaviour, and discourse in matters of religion, neither violently defending one, nor with that common ardour and contention opposing another; yet in despight hereof I dare, without usurpation, assume the honorable stile of a Christian; not that I meerely owe this stile to the font, my education or clime wherein I was borne as being bred up either to confirme those principles my parents instilled into my unwary understanding; or by a generall consent proceed in the religion of my countrey. But having, in my riper years, and confirmed judgment seene and examined all, I find myselfe obliged by the principles of grace, and the law of mine owne reason to embrace no other name but this; neither doth herein my zeale so fare make me forget the general charitie I owe unto humanity, as rather to hate than pity Turkes, Infidels and (what is worse) Jewes, rather contenting myself to enjoy that happy stile, than maligning those who refuse so glorious a title."

(*a*) Such are the words of Dr. Rawley. See ante page iii.

(*p*) In some part of his works, I do not recollect where, he says, "I endeavour not to inflate trifles into marvails, but to reduce marvails to plain things:" and Rawley, in his life of Lord Bacon, says, "In the composing of his books he had rather drive at a masculine and clear expression, than at any fineness or affectation of phrases, and would often ask if the *meaning* were ex-

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2d. The style of the Paradoxes, if they are supposed to contain an indirect attack upon Christianity, are in opposition to Lord Bacon's opinion of the proper style for religious controversy. "To search, he says, and rip up wounds with a laughing countenance, to intermix Scripture and scurrility sometimes in one sentence, is a thing far from the devout reverence of a Christian, and scant beseeming the honest regard of a sober man. 'Non est major confusio quam serii et joci.' There is no greater confusion than the confounding of jest and earnest. The majesty of religion, and the contempt and deformity of things ridiculous, are things as distant as things may be. Two principal causes have I ever known of atheism; curious controversies, and profane scoffing. (*b*) 3d. They have not any resemblance to the style of Lord Bacon; they are neither poetical adorned by imagery, (*c*) nor learned enriched by rare quota-

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pressed *plainly enough*, as being one that accounted *words* to be but *subservient*, or *ministeriall* to matter; and not the *principall*. And if his *stile* were *polite*, it was because he could do no otherwise; neither was he given to any *light conceits*; or *descanting* upon *words*, but did ever, purposely and industriously avoyd them; for he held such things to be but *digressions or diversions* from the *scope* intended; and to derogate from the *weight* and *dignity* of the stile.

(*b*) See page 32 of this volume.

(*c*) As a specimen of his mode of illustrating by imagery, see the Advancement of Learning, vol. ii, page 63. In "Orpheus's theatre, where all beasts and birds assembled; and, forgetting their several appetites, some of prey, some of game, some of quarrel, stood all sociably together listening to the

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tion, nor familiar illustrated by examples, (*d*) as in most of his philosophical works; nor written

airs and accords of the harp; the sound whereof no sooner ceased, or was drowned by some louder noise, but every beast returned to his own nature: wherein is aptly described the nature and condition of men, who are full of savage and unreclaimed desires of profit, of lust, of revenge; which as long as they give ear to precepts, to laws, to religion, sweetly touched with eloquence and persuasion of books, of sermons, of harangues, so long is society and peace maintained; but if these instruments be silent, or that sedition and tumult make them not audible, all things dissolve into anarchy and confusion."

(*d*) In the Treatise De Augmentis, lib. v. 2, upon literate experience or invention, not by art but by accident, he says, speaking of the error in supposing that experiments will succeed without due consideration of quantity of matter, "It is not altogether safe to rely upon any natural experiment, before proof be made both in a lesser, and greater quantity. Men should remember the mockery of Æsop's housewife, who conceited that by doubling her measure of barley, her hen would daily lay her two eggs; but the hen grew fat, and laid none." As specimens of his familiar illustration, see also the Advancement of Learning, vol. ii. p. 44, when speaking of studies teeming with error, he says, "Surely to alchemy this right is due, that it may be compared to the husbandman whereof Æsop makes the fable; that, when he died, told his sons, that he had left unto them gold buried under ground in his vineyard; and they digged over all the ground, and gold they found none: but by reason of their stirring and digging the mould about the roots of their vines, they had a great vintage the year following: so assuredly the search and stir to make gold hath brought to light a great number of good and fruitful inventions and experiments, as well for the disclosing of nature as for the use of man's life." See again in exhibiting the nature of the philosophy of universals, "Philosopha Prima," the connection between all parts of nature, he says, "Is not the delight of

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pressly (*e*) and weightily (*f*) as the Novum Organum: but they seem remarkable only for antithesis, something like Fuller, without his spirit: a sort of dry Fuller, or, as he would say, Fuller's earth: or like the Essay on Death, published also in the Remains, and ascribed without authority to the same illustrious author. (*d*)

The evidence in favour of the authenticity of the Paradoxes, from the style is, that—1. Aphorisms are the favorite style of Lord Bacon. (*x*) 2.

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the quavering upon a stop in music, the same with the playing of light upon the water?

'Splendet tremulo sub lumine pontus:'"—See vol. ii, p. 124.

I could willingly indulge myself with the selection of other instances, but remembering the admonition that "it is not granted to love and to be wise," I stop.

(*e*) Ben Jonson in his Discoveries says, Dominus Verulamius. One though he be excellent, and the chief, is not to be imitated alone; for no imitator ever grew up to his author: likeness is always on this side of truth; yet there happened in my time one noble speaker, who was full of gravity in his speaking. His language (where he could spare or pass by a jest) was nobly censorious. No man ever spake more neatly, more pressly, more weightily, or suffered less emptiness, less idleness in what he uttered. No member of his speech but consisted of his own graces. His hearers could not cough, or look aside from him without loss. He commanded where he spoke; and had his judges angry and pleased at his devotion. No man had their affections more in his power. The fear of every man that heard him was lest he should make an end.

(*f*) Take for instance any of the Nervous Aphorisms, in the Novum Organum, and compare it with the sentences of the Paradoxes.

(*d*) See Preface to vol. i. p. 36.

(*x*) No man was, for his own sake, less attached to system

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The paradoxes contain two of Lord Bacon's expressions; the one in the beginning of the 26th Paradox, "He is often tossed and shaken, yet is as Mount Sion: he is a serpent and a dove."(*u*) The other in the 10th Paradox. "He lends and gives most freely, and yet he is the greatest usurer."(*a*) 3rd. That although the Paradoxes do not contain any patent internal evidence of their authenticity, yet there is latent evidence from the dissimilarity of the style, as Lord Bacon, knowing how to discover the

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or ornament than Lord Bacon. A plain, unadorned style in aphorisms, in which the *Novum Organum* is written, is, he invariably states, the proper style for philosophy. In the midst of his own arrangement, in the Advancement of Learning, he says: "The worst and most absurd sort of triflers are those who have pent the whole art into strict methods and narrow systems which men commonly cry up for the sake of their regularity and style." Then see Advancement of Learning, vol. ii. p. 203.

(*u*) This union of the serpent and the dove is a favourite image of Lord Bacon's. See the Advancement of Learning, vol. ii. p. 237: "It is not possible to join serpentine wisdom with the columbine innocency, except men know exactly all the conditions of the serpent; his baseness and going upon his belly, his volubility and lubricity, his envy and sting, and the rest; that is, all forms and natures of evil: for without this, virtue lieth open and unfenced." See also vol. i. p. 205, in the Meditationes Sacræ, "of the innocency of the dove, and the wisdom of the serpent."

(*a*) See Apophthegm 148, in vol. i. p. 381, it is as follows:

"They would say of the duke of Guise, Henry, that had sold and oppignerated all his patrimony, to suffice the great donatives that he had made; that he was the greatest usurer of France, because all his state was in obligations."

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mind through words,(*b*) well knew the art of concealment by which he could cast a cloud about him so as to obscure himself from his enemies.(*a*) To this refined reason which, without proving the authenticity of the paradoxes, shews only that, by possibility, they may be authentic, it is sufficient to say that, as they were not published or intended for publication, it seems difficult to discover any assignable cause for this mystery. (*y*)

CONSIDERATIONS TOUCHING THE PACIFICATION OF THE CHURCH.

This was published in 1640, and there are copies in the British Museum, and at Cambridge: and a MSS. in Sloane's Collection, 23.

THE TRANSLATION OF CERTAIN PSALMS.

This was published in 8vo. in 1625,(*d*) and in the *Resuscitatio.* (*x*)

HOLY WAR.

This was written and published in 4to in 1623, and in 1629; and there are MSS. in the British Museum.(*c*)

(*b*) See Treatise De Augmentis, b. vi. c. 1, § 11.

(*a*) See the Art of Self-Concealment in the Advancement of Learning, vol. ii. p. 278. See also in the same work, p. 199, upon the art of writing in cyphers. See also under Parabolical Poetry, ibid, p.121. See ante, Essay on Dissimulation, vol. i. p. 17.

(*y*) If this had been his object, would the dove and the serpent have appeared.—T. C. G.

(*d*) There is a copy in the Bodleian. (*x*) Ante iii. and xxx.

(*c*) Sloane's, 53. Harleian 3, 267, written in 1622.

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THEOLOGICAL TRACTS.

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A PRAYER, OR PSALM,
MADE BY THE LORD BACON,
CHANCELLOR OF ENGLAND.

Most gracious Lord God, my merciful Father, from my youth up, my Creator, my Redeemer, my Comforter. Thou, O Lord, soundest and searchest the depths and secrets of all hearts: thou acknowledgest the upright of heart: thou judgest the hypocrite: thou ponderest men's thoughts and doings as in a balance: thou measurest their intentions as with a line: vanity and crooked ways cannot be hid from thee.

Remember, O Lord, how thy servant hath walked before thee: remember what I have first sought, and what hath been principal in my intentions. I have loved thy assemblies: I have mourned for the divisions of thy Church: I have delighted in the brightness of thy sanctuary. This vine which thy right hand hath planted in this nation, I have ever prayed unto thee, that it might have the first and the latter rain; and that it might stretch her branches to the seas and to the floods. The state and bread of the poor and oppressed have been precious in mine eyes: I have hated all cruelty and hardness of heart: I have, though in a despised weed, procured the good

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of all men. If any have been my enemies, I thought not of them; neither hath the sun almost set upon my displeasure; but I have been as a dove, free from superfluity of maliciousness. Thy creatures have been my books, but thy Scriptures much more. I have sought thee in the courts, fields, and gardens, but I have found thee in thy temples.

Thousands have been my sins, and ten thousands my transgressions; but thy sanctifications have remained with me, and my heart, through thy grace, hath been an unquenched coal upon thine altar. O Lord, my strength, I have since my youth met with thee in all my ways, by thy fatherly compassions, by thy comfortable chastisements, and by thy most visible providence. As thy favours have increased upon me, so have thy corrections; so as thou hast been always near me, O Lord; and ever as my worldly blessings were exalted, so secret darts from thee have pierced me; and when I have ascended before men, I have descended in humiliation before thee. And now, when I thought most of peace and honour, thy hand is heavy upon me, and hath humbled me according to thy former loving-kindness, keeping me still in thy fatherly school, not as a bastard, but as a child. Just are thy judgments upon me for my sins, which are more in number than the sands of the sea, but have no proportion to thy mercies; for what are the sands of the sea, earth, heavens, and all these are nothing to thy mercies. Besides my innumerable sins, I confess before thee, that I am debtor to thee for the gracious talent of thy gifts and graces, which

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I have neither put into a napkin, nor put it, as I ought, to exchangers, where it might have made best profit, but mispent it in things for which I was least fit: so I may truly say, my soul hath been a stranger in the course of my pilgrimage. Be merciful unto me, O Lord, for my Saviour's sake, and receive me into thy bosom, or guide me in thy ways.

A PRAYER

MADE AND USED BY THE LORD CHANCELLOR BACON.

O ETERNAL God, and most merciful Father in Jesus Christ: Let the words of our mouths, and the meditations of our hearts be now and ever gracious in thy sight, and acceptable unto thee, O Lord, our God, our strength, and our Redeemer.

O Eternal God, and most merciful Father in Jesus Christ, in whom thou hast made a covenant of grace and mercy with all those that come unto thee in him; in his name and mediation we humbly prostrate ourselves before the throne of thy mercies seat, acknowledging that, by the breach of all thy holy laws and commandments, we are become wild olive-branches, strangers to thy covenant of grace; we have defaced in ourselves thy sacred image imprinted in us by creation; we have sinned against heaven and before thee, and are no more worthy to be called thy children. O admit us into the place even of hired servants. Lord, thou hast formed us in our

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mothers wombs, thy providence hath hitherto watched over us, and preserved us unto this period of time: O stay not the course of thy mercies and loving-kindness towards us: have mercy upon us, O Lord, for thy dear Son Christ Jesus sake, who is the way, the truth, and the life. In him, O Lord, we appeal from thy justice to thy mercy, beseeching thee in his name, and for his sake only, thou wilt be graciously pleased freely to pardon and forgive us all our sins and disobedience, whether in thought, word, or deed, committed against thy divine Majesty; and in his precious blood shedding, death, and perfect obedience, free us from the guilt, the stain, the punishment, and dominion of all our sins, and clothe us with his perfect righteousness. There is mercy with thee, O Lord, that thou mayest be feared; yea, thy mercies swallow up the greatness of our sins: speak peace to our souls and consciences; make us happy in the free remission of all our sins, and be reconciled to thy poor servants in Jesus Christ, in whom thou art well pleased: suffer not the works of thine own hands to perish; thou art not delighted in the death of sinners, but in their conversion. Turn our hearts, and we shall be turned; convert us, and we shall be converted; illuminate the eyes of our minds and understanding with the bright beams of thy Holy Spirit, that we may daily grow in the saving knowledge of the heavenly mystery of our redemption, wrought by our dear Lord and Saviour Jesus Christ; sanctify our wills and affection by the same Spirit, the most sacred fountain of all grace and goodness; reduce them to the obedience of thy most

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holy will in the practice of all piety toward thee, and charity towards all men. Inflame our hearts with thy love, cast forth of them what displeaseth thee, all infidelity, hardness of heart, profaneness, hypocrisy, contempt of thy holy word and ordinances, all uncleanness, and whatsoever advanceth itself in opposition to thy holy will. And grant that henceforth, through thy grace, we may be enabled to lead a godly, holy, sober, and Christian life, in true sincerity and uprightness of heart before thee. To this end, plant thy holy fear in our hearts, grant that it may never depart from before our eyes, but continually guide our feet in the paths of thy righteousness, and in the ways of thy commandments: increase our weak faith, grant it may daily bring forth the true fruits of unfeigned repentance, that by the power of the death of our Lord and Saviour Jesus Christ we may daily die unto sin, and by the power of his resurrection we may be quickened, and raised up to newness of life, may be truly born anew, and may be effectually made partakers of the first resurrection, that then the second death may never have dominion over us. Teach us, O Lord, so to number our days, that we may apply our hearts unto wisdom; make us ever mindful of our last end, and continually to exercise the knowledge of grace in our hearts, that in the said divorce of soul and body, we may be translated here to that kingdom of glory prepared for all those that love thee, and shall trust in thee; even then and ever, O Lord, let thy holy angels pitch their tents round about us, to guard and defend us

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from all the malice of Satan, and from all perils both of soul and body. Pardon all our unthankfulness, make us daily more and more thankful for all thy mercies and benefits daily poured down upon us. Let these our humble prayers ascend to the throne of grace, and be granted not only for these mercies, but for whatsoever else thy wisdom knows needful for us; and for all those that are in need, misery, and distress, whom, Lord, thou hast afflicted either in soul or body; grant them patience and perseverance in the end, and to the end: And that, O Lord, not for any merits of ours, but only for the merits of thy Son, and our alone Saviour Christ Jesus; to whom with thee and the Holy Spirit be ascribed all glory, &c. *Amen.*

THE STUDENT'S PRAYER.

To God the Father, God the Word, God the Spirit, we pour forth most humble and hearty supplications; that he remembering the calamities of mankind, and the pilgrimage of this our life, in which we wear out days few and evil, would please to open to us new refreshments out of the fountains of his goodness, for the alleviating of our miseries. This also we humbly and earnestly beg, that human things may not prejudice such as are divine; neither that from the unlocking of the gates of sense, and the kindling of a greater natural light, any thing of

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incredulity, or intellectual night, may arise in our minds towards divine mysteries. But rather, that by our mind thoroughly cleansed and purged from fancy and vanities, and yet subject and perfectly given up to the divine oracles, there may be given unto faith the things that are faith's. *Amen.*

THE WRITER'S PRAYER.

Thou, O Father, who gavest the visible light as the first-born of thy creatures, and didst pour into man the intellectual light as the top and consummation of thy workmanship, be pleased to protect and govern this work, which coming from thy goodness, returneth to thy glory. Thou after thou hadst reviewed the works which thy hands had made, beheldest that every thing was very good, and thou didst rest with complacency in them. But man, reflecting on the works which he had made, saw that all was vanity and vexation of spirit, and could by no means acquiesce in them. Wherefore, if we labour in thy works with the sweat of our brows, thou wilt make us partakers of thy vision and thy sabbath. We humbly beg that this mind may be stedfastly in us; and that thou, by our hands, and also by the hands of others, on whom thou shalt bestow the same spirit, wilt please to convey a largess of new alms to thy family of mankind. These things we commend to thy everlasting love, by our Jesus, thy Christ, God with us. *Amen.*

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A CONFESSION OF FAITH, WRITTEN BY THE RIGHT HONOURABLE FRANCIS BACON, BARON OF VERULAM, &c.

I BELIEVE that nothing is without beginning, but God; no nature, no matter, no spirit, but one, only, and the same God. That God, as he is eternally almighty, only wise, only good, in his nature; so he is eternally Father, Son, and Spirit, in persons.

I believe that God is so holy, pure, and jealous, as it is impossible for him to be pleased in any creature, though the work of his own hands; so that neither angel, man, nor world, could stand, or can stand, one moment in his eyes, without beholding the same in the face of a Mediator; and therefore, that before him, with whom all things are present, the Lamb of God was slain before all worlds; without which eternal counsel of his, it was impossible for him to have descended to any work of creation; but he should have enjoyed the blessed and individual society of three persons in Godhead for ever.

But that, out of his eternal and infinite goodness and love purposing to become a Creator, and to communicate to his creatures, he ordained in his

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eternal counsel, that one person of the Godhead should be united to one nature, and to one particular of his creatures: that so, in the person of the Mediator, the true ladder might be fixed, whereby God might descend to his creatures, and his creatures might ascend to God: so that God, by the reconcilement of the Mediator, turning his countenance towards his creatures, though not in equal light and degree, made way unto the dispensation of his most holy and secret will; whereby some of his creatures might stand, and keep their state, others might possibly fall, and be restored; and others might fall, and not be restored to their estate, but yet remain in being, though under wrath and corruption: all with respect to the Mediator; which is the great mystery and perfect centre of all God's ways with his creatures, and unto which all his other works and wonders do but serve and refer.

That he chose, according to his good pleasure, man to be that creature, to whose nature the person of the eternal Son of God should be united; and amongst the generations of men, elected a small flock, in whom, by the participation of himself, he purposed to express the riches of his glory; all the ministration of angels, damnation of devils and reprobates, and universal administration of all creatures, and dispensation of all times, having no other end, but as the ways and ambages of God, to be further glorified in his saints, who are one with their head the Mediator, who is one with God.

That by the virtue of this his eternal counsel he

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condescended of his own good pleasure, and according to the times and seasons to himself known, to become a Creator; and by his eternal Word created all things; and by his eternal Spirit doth comfort and preserve them.

That he made all things in their first estate good, and removed from himself the beginning of all evil and vanity into the liberty of the creature; but reserved in himself the beginning of all restitution to the liberty of his grace; using, nevertheless, and turning the falling and defection of the creature, which to his prescience was eternally known, to make way to his eternal counsel, touching a Mediator, and the work he purposed to accomplish in him.

That God created Spirits, whereof some kept their standing, and others fell: he created heaven and earth, and all their armies and generations; and gave unto them constant and everlasting laws, which we call nature; which is nothing but the laws of the creation; which laws nevertheless have had three changes or times, and are to have a fourth or last. The first, when the matter of heaven and earth was created without forms: the second, the interim of perfection of every day's work: the third, by the curse, which notwithstanding was no new creation: and the last, at the end of the world, the manner whereof is not yet fully revealed: so as the laws of nature, which now remain and govern inviolably till the end of the world, began to be in force when God first rested from his works, and ceased to

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create; but received a revocation, in part, by the curse; since which time they change not.

That notwithstanding God hath rested and ceased from creating since the first sabbath, yet, nevertheless, he doth accomplish and fulfil his divine will in all things, great and small, singular and general, as fully and exactly by providence, as he could by miracle and new creation, though his working be not immediate and direct, but by compass; not violating nature, which is his own law, upon the creature.

That at the first, the soul of man was not produced by heaven or earth, but was breathed immediately from God: so that the ways and proceedings of God with spirits are not included in nature; that is, in the laws of heaven and earth; but are reserved to the law of his secret will and grace: wherein God worketh still, and resteth not from the work of redemption, as he resteth from the work of creation: but continueth working till the end of the world; what time that work also shall be accomplished, and an eternal sabbath shall ensue. Likewise, that whensoever God doth transcend the law of nature by miracles, which may ever seem as new creations, he never cometh to that point or pass, but in regard of the work of redemption, which is the greater, and whereto all God's signs and miracles do refer.

That God created man in his own image, in a reasonable soul, in innocency, in free-will, and in

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sovereignty: that he gave him a law and commandment, which was in his power to keep, but he kept it not: that man made a total defection from God, presuming to imagine that the commandments and prohibitions of God were not the rules of good and evil, but that good and evil had their own principles and beginnings, and lusted after the knowledge of those imagined beginnings; to the end, to depend no more upon God's will revealed, but upon himself, and his own light, as a God; than the which there could not be a sin more opposite to the whole law of God: that yet, nevertheless, this great sin was not originally moved by the malice of man, but was insinuated by the suggestion and instigation of the devil, who was the first defected creature, and fell of malice, and not by temptation.

That upon the fall of man, death and vanity entered by the justice of God; and the image of God in man was defaced; and heaven and earth, which were made for man's use, were subdued to corruption by his fall; but then, that instantly, and without intermission of time, after the word of God's law became, through the fall of man, frustrate as to obedience, there succeeded the greater word of the promise, that the righteousness of God might be wrought by faith.

That as well the law of God as the word of his promise endure the same for ever: but that they have been revealed in several manners, according to the dispensation of times. For the law was first imprinted in that remnant of light of nature, which

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was left after the fall, being sufficient to accuse: then it was more manifestly expressed in the written law; and was yet more opened by the prophets; and, lastly, expounded in the true perfection by the Son of God, the great Prophet, and perfect interpreter, as also fulfiller of the law. That likewise the word of the promise was manifested and revealed: first, by immediate revelation and inspiration; after by figures, which were of two natures: the one, the rites and ceremonies of the law; the other, the continual history of the old world, and Church of the Jews; which though it be literally true, yet is it pregnant of a perpetual allegory and shadow of the work of the redemption to follow. The same promise or evangile was more clearly revealed and declared by the prophets, and then by the Son himself, and lastly by the Holy Ghost, which illuminateth the Church to the end of the world.

That in the fulness of time, according to the promise and oath, of a chosen lineage descended the blessed seed of the woman, Jesus Christ, the only begotten Son of God and Saviour of the world; who was conceived by the power and overshadowing of the Holy Ghost, and took flesh of the Virgin Mary: that the Word did not only take flesh, or was joined to flesh, but was made flesh, though without confusion of substance or nature: so as the eternal Son of God and the ever blessed Son of Mary was one person; so one, as the blessed virgin may be truly and catholicly called "Deipara," the Mother of God; so one, as there is no unity in universal

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nature, not that of the soul and body of man, so perfect; for the three heavenly unities, whereof that is the second, exceed all natural unities: that is to say, the unity of the three persons in Godhead; the unity of God and man in Christ; and the unity of Christ and the Church: the Holy Ghost being the worker of both these latter unities; for by the Holy Ghost was Christ incarnate and quickened in flesh, and by the Holy Ghost is man regenerate and quickened in spirit.

That Jesus, the Lord, became in the flesh a sacrificer, and a sacrifice for sin; a satisfaction and price to the justice of God; a meriter of glory and the kingdom; a pattern of all righteousness; a preacher of the word which himself was; a finisher of the ceremonies; a corner-stone to remove the separation between Jew and Gentile; an intercessor for the Church; a lord of nature in his miracles; a conqueror of death and the power of darkness in his resurrection; and that he fulfilled the whole counsel of God, performing all his sacred offices and anointing on earth, accomplished the whole work of the redemption and restitution of man to a state superior to the angels, whereas the state of man by creation was inferior, and reconciled and established all things according to the eternal will of the Father.

That in time, Jesus the Lord was born in the days of Herod, and suffered under the government of Pontius Pilate, being deputy of the Romans, and under the high priesthood of Caiaphas, and was betrayed by Judas, one of the twelve apostles, and

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was crucified at Hierusalem; and after a true and natural death, and his body laid in the sepulchre, the third day he raised himself from the bonds of death, and arose and shewed himself to many chosen witnesses, by the space of divers days; and at the end of those days, in the sight of many, ascended into heaven; where he continueth his intercession; and shall from thence, at the day appointed, come in greatest glory to judge the world.

That the sufferings and merits of Christ, as they are sufficient to do away the sins of the whole world, so they are only effectual to those which are regenerate by the Holy Ghost; who breatheth where he will of free grace; which grace, as a seed incorruptible, quickeneth the spirit of man, and conceiveth him anew a son of God and member of Christ: so that Christ having man's flesh, and man having Christ's spirit, there is an open passage and mutual imputation; whereby sin and wrath was conveyed to Christ from man, and merit and life is conveyed to man from Christ: which seed of the Holy Ghost first figureth in us the image of Christ slain or crucified, through a lively faith; and then reneweth in us the image of God in holiness and charity; though both imperfectly, and in degrees far differing even in God's elect, as well in regard of the fire of the Spirit, as of the illumination thereof; which is more or less in a large proportion: as namely, in the Church before Christ; which yet nevertheless was partaker of one and the same salvation with us, and of one and the same means of salvation with us.

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That the work of the Spirit, though it be not tied to any means in heaven or earth, yet it is ordinarily dispensed by the preaching of the word; the administration of the sacraments; the covenants of the fathers upon the children, prayer, reading; the censures of the Church; the society of the godly; the cross and afflictions; God's benefits; his judgments upon others; miracles; the contemplation of his creatures: all which, though some be more principal, God useth as the means of vocation and conversion of his elect; not derogating from his power to call immediately by his grace, and at all hours and moments of the day, that is, of man's life, according to his good pleasure.

That the word of God, whereby his will is revealed, continued in revelation and tradition until Moses; and that the Scriptures were from Moses's time to the times of the apostles and evangelists; in whose age, after the coming of the Holy Ghost, the teacher of all truth, the book of the Scriptures was shut and closed, so as not to receive any new addition; and that the Church hath no power over the Scriptures to teach or command any thing contrary to the written word, but is as the ark, wherein the tables of the first testament were kept and preserved: that is to say, the Church hath only the custody and delivery over of the Scriptures committed unto the same; together with the interpretation of them, but such only as is conceived from themselves.

That there is an universal or catholic Church of

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God, dispersed over the face of the earth, which is Christ's spouse, and Christ's body; being gathered of the fathers of the old world, of the Church of the Jews, of the spirits of the faithful dissolved, and the spirits of the faithful militant, and of the names yet to be born, which are already written in the book of life. That there is also a visible Church, distinguished by the outward works of God's covenant, and the receiving of the holy doctrine, with the use of the mysteries of God, and the invocation, and sanctification of his holy name. That there is also an holy succession in the prophets of the new testament and fathers of the Church, from the time of the apostles and disciples which saw our Saviour in the flesh, unto the consummation of the work of the ministry; which persons are called from God by gift, or inward anointing; and the vocation of God followed by an outward calling and ordination of the Church.

I believe, that the souls of such as die in the Lord are blessed, and rest from their labours, and enjoy the sight of God, yet so, as they are in expectation of a farther revelation of their glory in the last day. At which time all flesh of man shall arise and be changed, and shall appear and receive from Jesus Christ his eternal judgment; and the glory of the saints shall then be full: and the kingdom shall be given up to God the Father: from which time all things shall continue for ever in that being and state, which then they shall receive. So as there are three times, if times they may be called, or parts of eter-

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nity: The first, the time before beginnings, when the Godhead was only, without the being of any creature: the second, the time of the mystery, which continueth from the creation to the dissolution of the world: and the third, the time of the revelation of the sons of God; which time is the last, and is everlasting without change.

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THE CHARACTERS OF A BELIEVING CHRISTIAN,

IN PARADOXES AND SEEMING CONTRADICTIONS.

1. A CHRISTIAN is one that believes things his reason cannot comprehend; he hopes for things which neither he nor any man alive ever saw: he labours for that which he knoweth he shall never obtain; yet in the issue, his belief appears not to be false; his hope makes him not ashamed; his labour is not in vain.

2. He believes three to be one, and one to be three; a father not to be elder than his son; a son to be equal with his father; and one proceeding from both to be equal with both; he believing three persons in one nature, and two natures in one person.

3. He believes a virgin to be a mother of a son; and that very son of her's to be her maker. He believes him to have been shut up in a narrow room, whom heaven and earth could not contain. He believes him to have been born in time, who was and is from everlasting. He believes him to have been a weak child, carried in arms, who is the Almighty; and him once to have died, who only hath life and immortality in himself.

4. He believes the God of all grace to have been angry with one that hath never offended him; and that God, that hates sin, to be reconciled to himself, though sinning continually, and never making, or being able to make him satisfaction. He believes a most just God to have punished a most just person,

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and to have justified himself though a most ungodly sinner. He believes himself freely pardoned, and yet a sufficient satisfaction was made for him.

5. He believes himself to be precious in God's sight, and yet lothes himself in his own. He dares not justify himself even in those things wherein he can find no fault with himself, and yet believes God accepts him in those services wherein he is able to find many faults.

6. He praises God for his justice, and yet fears him for his mercy. He is so ashamed as that he dares not open his mouth before God; and yet he comes with boldness to God, and asks him any thing he needs. He is so humble as to acknowledge himself to deserve nothing but evil; and yet believes that God means him all good. He is one that fears always, yet is as bold as a lion. He is often sorrowful, yet always rejoicing; many times complaining, yet always giving of thanks. He is the most lowly-minded, yet the greatest aspirer; most contented, yet ever craving.

7. He bears a lofty spirit in a mean condition; when he is ablest, he thinks meanest of himself. He is rich in poverty, and poor in the midst of riches. He believes all the world to be his, yet he dares take nothing without special leave from God. He covenants with God for nothing, yet looks for a great reward. He loseth his life and gains by it; and whilst he loseth it, he saveth it.

8. He lives not to himself, yet of all others he is most wise for himself. He denieth himself often, yet

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no man loveth himself so well as he. He is most reproached, yet most honoured. He hath most afflictions, and most comforts.

9. The more injury his enemies do him, the more advantages he gains by them. The more he forsakes worldly things, the more he enjoys them.

10. He is the most temperate of all men, yet fares most deliciously; he lends and gives most freely, yet he is the greatest usurer; he is meek towards all men, yet inexorable by men. He is the best child, husband, brother, friend; yet hates father and mother, brother and sister. He loves all men as himself, yet hates some men with a perfect hatred.

11. He desires to have more grace than any man hath in the world, yet is truly sorrowful when he seeth any man have less than himself; he knoweth no man after the flesh, yet gives all men their due respects; he knoweth if he please man he cannot be the servant of Christ; yet for Christ's sake he pleaseth all men in all things. He is a peace-maker, yet is a continual fighter, and is an irreconcileable enemy.

12. He believes him to be worse than an infidel that provides not for his family, yet himself lives and dies without care. He accounts all his superiors, yet stands stiffly upon authority. He is severe to his children, because he loveth them; and by being favourable unto his enemy, he revengeth himself upon him.

13. He believes the angels to be more excellent creatures than himself, and yet accounts them his servants. He believes that he receives many good

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things by their means, and yet he neither prays for their assistance, nor offers them thanks, which he doth not disdain to do to the meanest Christian.

14. He believes himself to be a king, how mean soever he be: and how great soever he be, yet he thinks himself not too good to be a servant to the poorest saint.

15. He is often in prison, yet always at liberty; a freeman, though a servant. He loves not honour amongst men, yet highly prizeth a good name.

16. He believes that God hath bidden every man that doth him good to do so; he yet of any man is the most thankful to them that do aught for him. He would lay down his life to save the soul of his enemy, yet will not adventure upon one sin to save the life of him who saved his.

17. He swears to his own hindrance, and changeth not; yet knoweth that his oath cannot tie him to sin.

18. He believes Christ to have no need of any thing he doth, yet maketh account that he doth relieve Christ in all his acts of charity. He knoweth he can do nothing of himself, yet labours to work out his own salvation. He professeth he can do nothing, yet as truly professeth he can do all things: he knoweth that flesh and blood cannot inherit the kingdom of God, yet believeth he shall go to heaven both body and soul.

19. He trembles at God's word, yet counts it sweeter to him than honey and the honey-comb, and dearer than thousands of gold and silver.

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20. He believes that God will never damn him, and yet fears God for being able to cast him into hell. He knoweth he shall not be saved by nor for his good works, yet he doth all the good works he can.

21. He knoweth God's providence is in all things, yet is so diligent in his calling and business, as if he were to cut out the thread of his happiness. He believes before-hand that God hath purposed what he shall be, and that nothing can make him to alter his purpose; yet prays and endeavours, as if he would force God to save him for ever.

22. He prays and labours for that which he is confident God means to give; and the more assured he is, the more earnest he prays for that he knows he shall never obtain, and yet gives not over. He prays and labours for that which he knows he shall be no less happy without; he prays with all his heart not to be led into temptation, yet rejoiceth when he is fallen into it; he believes his prayers are heard, even when they are denied, and gives thanks for that which he prays against.

23. He hath within him both flesh and spirit, yet he is not a double-minded man; he is often led captive by the law of sin, yet it never gets dominion over him; he cannot sin, yet can do nothing without sin. He doth nothing against his will, yet maintains he doth what he would not. He wavers and doubteth, yet obtains.

24. He is often tossed and shaken, yet is as mount Sion; he is a serpent and a dove; a lamb

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and a lion; a reed and a cedar. He is sometimes so troubled, that he thinks nothihg to be true in religion; yet if he did think so, he could not at all be troubled. He thinks sometimes that God hath no mercy for him, yet resolves to die in the pursuit of it. He believes, like Abraham, against hope, and though he cannot answer God's logic, yet, with the woman of Canaan, he hopes to prevail with the rhetoric of importunity.

25. He wrestles, and yet prevails; and though yielding himself unworthy of the least blessing he enjoys, yet, Jacob-like, he will not let him go without a new blessing. He sometimes thinks himself to have no grace at all, and yet how poor and afflicted soever he be besides, he would not change conditions with the most prosperous man under heaven, that is a manifest worldling.

26. He thinks sometimes that the ordinances of God do him no good, yet he would rather part with his life than be deprived of them.

27. He was born dead; yet so that it had been murder for any to have taken his life away. After he began to live, he was ever dying.

28. And though he hath an eternal life begun in him, yet he makes account he hath a death to pass through.

29. He counts self-murder a heinous sin, yet is ever busied in crucifying the flesh, and in putting to death his earthly members; not doubting but there will come a time of glory, when he shall be esteemed precious in the sight of the great God of heaven and

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earth, appearing with boldness at his throne, and asking any thing he needs; being endued with humility, by acknowledging his great crimes and offences, and that he deserveth nothing but severe punishment.

30. He believes his soul and body shall be as full of glory as them that have more; and no more full than theirs that have less.

31. He lives invisible to those that see him, and those that know him best do but guess at him; yet those many times judge more truly of him than he doth of himself.

32. The world will sometimes account him a saint, when God accounteth him a hypocrite; and afterwards, when the world branded him for an hypocrite, then God owned him for a saint.

33. His death makes not an end of him. His soul which was put into his body, is not to be perfected without his body; yet his soul is more happy when it is separated from his body, than when it was joined unto it: And his body, though torn in pieces, burnt to ashes, ground to powder, turned to rottenness, shall be no loser.

34. His Advocate, his Surety shall he his Judge; his mortal part shall become immortal; and what was sown in corruption and defilement shall be raised in incorruption and glory; and a finite creature shall possess an infinite happiness. Glory be to God.

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AN ADVERTISEMENT TOUCHING THE CONTROVERSIES OF THE CHURCH OF ENGLAND.

It is but ignorance, if any man find it strange, that the state of religion, especially in the days of peace, should be exercised and troubled with controversies: for as it is the condition of the Church militant to be ever under trials, so it cometh to pass, that when the fiery trial of persecution ceaseth, there succeedeth another trial, which, as it were, by contrary blasts of doctrine, doth sift and winnow men's faith, and proveth whether they know God aright; even as that other of afflictions discovereth whether they love him better than the world. Accordingly was it foretold by Christ, saying, "that in the later times it should be said, Lo here, lo there is Christ:" which is to be understood, not as if the very person of Christ should be assumed and counterfeited, but his authority and pre-eminence, which is to be the truth itself, should be challenged and pretended. Thus have we read and seen to be fulfilled that which followeth, "Ecce in deserto, ecce in penetralibus:" while some have sought the truth in the conventicles and conciliables of heretics and sectaries; others in the external face and representation of the Church; and both sorts have been seduced. Were it then that the controversies of the Church of England were such, as they did divide the unity of the spirit, and not only such as do unswathe her of her

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bands, the bands of peace, yet could it be no occasion for any pretended catholic to judge us, or for any irreligious person to despise us; or if it be, it shall but happen to us all as it hath used to do; to them to be hardened, and to us to endure the good pleasure of God. But now that our contentions are such, as we need not so much that general canon and sentence of Christ pronounced against heretics; "Erratis, nescientes Scripturas, et potestatem Dei;" you do err, not knowing the Scripture, and the power of God: as we need the admonition of St. James. "Let every man be swift to hear, slow to speak, slow to wrath;" and that the wound is no way dangerous, except we poison it with our remedies: as the former sort of men have less reason to make themselves music in our discord, so I have good hope that nothing shall displease ourselves, which shall be sincerely and modestly propounded for the appeasing of these dissentions. For if any shall be offended at this voice, "Vos estis fratres;" ye are brethren, why strive ye? he shall give a great presumption against himself, that he is the party that doth his brethren wrong.

The controversies themselves I will not enter into, as judging that the disease requireth rather rest than any other cure. Thus much we all know and confess, that they be not of the highest nature, for they are not touching the high mysteries of faith, such as detained the churches for many years after their first peace, what time the heretics moved curious questions, and made strange anatomies of the

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natures and person of Christ; and the catholic fathers were compelled to follow them with all subtlety of decisions and determinations to exclude them from their evasions, and to take them in their labyrinths; so as it is rightly said, "illis temporibus, ingeniosa res fuit, esse Christianum;" in those days it was an ingenious and subtle thing to be a Christian.

Neither are they concerning the great parts of the worship of God, of which it is true, that "non servatur unitas in credendo, nisi eadem adsit in colendo;" there will be kept no unity in believing, except it be entertained in worshipping; such as were the controversies of the east and west churches touching images, and such as are many of those between the church of Rome and us: as about the adoration of the Sacrament, and the like; but we contend about ceremonies and things indifferent, about the external policy and government of the Church; in which kind, if we would but remember that the ancient and true bonds of unity are "one faith, one baptism," and not one ceremony, one policy; if we would observe the league amongst Christians that is penned by our Saviour, "he that is not against us is with us;" if we could but comprehend that saying, "differentiæ rituum commendant unitatem doctrinæ;" the diversities of ceremonies do set forth the unity of doctrine; and that "habet religio quæ sunt æternitatis, habet quæ sunt temporis;" religion hath parts which belong to eternity, and parts which pertain to time: and if we did but know the virtue of silence and slowness to speak,

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commended by St. James, our controversies of themselves would close up and grow together: but most especially, if we would leave the over-weaning and turbulent humours of these times, and revive the blessed proceeding of the Apostles and Fathers of the primitive Church, which was, in the like and greater cases, not to enter into assertions and positions, but to deliver counsels and advices, we should need no other remedy at all: "si eadem consulis, frater, quæ affirmas, consulenti debetur reverentia, cum non debeatur fides affirmanti;" brother, if that which you set down as an assertion, you would deliver by way of advice, there were reverence due to your counsel, whereas faith is not due to your affirmation. St. Paul was content to speak thus, "Ego, non Dominus," I, and not the Lord: "Et, secundum consilium meum;" according to my counsel. But now men do too lightly say, "Non ego, sed Dominus;" not I, but the Lord: yea, and bind it with an heavy denunciation of his judgments, to terrify the simple, which have not sufficiently understood out of Solomon, that "the causeless curse shall not come."

Therefore seeing the accidents are they which breed the peril, and not the things themselves in their own nature, it is meet the remedies be applied unto them, by opening what it is on either part, that keepeth the wound green, and formalizeth both sides to a farther opposition, and worketh an indisposition in men's minds to be reunited: wherein no accusation is pretended; but I find in reason, that

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peace is best built upon a repetition of wrongs; and in example, that the speeches which have been made by the wisest men, "de concordia ordinum," have not abstained from reducing to memory the extremities used on both parts; so as it is true which is said, "Qui pacem tractat non repetitis conditionibus dissidii, is magis animos hominum dulcedine pacis fallit, quam æquitate componit."

And first of all, it is more than time that there were an end and surcease made of this immodest and deformed manner of writing lately entertained, whereby matter of religion is handled in the stile of the stage. Indeed, bitter and earnest writing must not hastily be condemned; for men cannot contend coldly, and without affection, about things which they hold dear and precious. A politic man may write from his brain without touch and sense of his heart; as in a speculation that appertaineth not unto him; but a feeling Christian will express in his words a character of zeal or love. The latter of which, as I could wish rather embraced, being more proper for these times, yet is the former warranted also by great examples.

But to leave all reverent and religious compassion towards evils, or indignation towards faults, and to turn religion into a comedy or satire; to search and rip up wounds with a laughing countenance, to intermix Scripture and scurrility sometimes in one sentence, is a thing far from the devout reverence of a Christian, and scant beseeming the honest regard of a sober man. "Non est major confusio,

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quam serii et joci." There is no greater confusion than the confounding of jest and earnest. The majesty of religion, and the contempt and deformity of things ridiculous, are things as distant as things may be. Two principal causes have I ever known of atheism; curious controversies, and profane scoffing: now that these two are joined in one, no doubt that sect will make no small progression.

And here I do much esteem the wisdom and religion of that bishop which replied to the first pamphlet of this kind, who remembered that a fool was to be answered, but not by becoming like unto him; and considered the matter which he handled, and not the person with whom he dealt.

Job, speaking of the majesty and gravity of a judge in himself, saith, "If I did smile, they believed it not:" as if he should have said, if I diverted, or glanced upon conceit of mirth, yet men's minds were so possessed with a reverence of the action in hand, as they could not receive it. Much more ought not this to be amongst bishops and divines disputing about holy things. And therefore as much do I mislike the invention of him who, as it seemeth, pleased himself in it as in no mean policy, that these men are to be dealt withal at their own weapons, and pledged in their own cup. This seemed to him as profound a device, as when the cardinal Sansovino counselled Julius the second to encounter the council of Pisa with the council of Lateran; or as lawful a challenge as Mr. Jewel made to confute the pretended catholics by the Fathers: but those

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things will not excuse the imitation of evil in another. It should be contrariwise with us, as Cæsar said, "Nil malo, quam eos similes esse sui, et me mei." But now, "Dum de bonis contendimus, de malis consentimus"; while we differ about good things, we resemble in evil.

Surely, if I were asked of these men, who were the more to be blamed, I should percase remember the proverb, that the second blow maketh the fray, and the saying of an obscure fellow; "Qui replicat, multiplicat;" he that replieth, multiplieth. But I would determine the question with this sentence; "Alter principium malo dedit, alter modum abstulit;" by the one means we have a beginning, and by the other we shall have none end.

And truly, as I do marvel that some of those preachers which call for reformation, whom I am far from wronging so far as to join them with these scoffers, do not publish some declaration, whereby they may satisfy the world, that they dislike their cause should be thus solicited; so I hope assuredly, that my lords of the clergy have none intelligence with this interlibelling, but do altogether disallow that their credit should be thus defended. For though I observe in one of them many glosses, whereby the man would insinuate himself into their favours, yet I find it to be ordinary, that many pressing and fawning persons do misconjecture of the humours of men in authority, and many times, "Veneri immolant suem," they seek to gratify them with that which they most dislike: for I have great reason to satisfy

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myself touching the judgment of my lords the bishops in this matter, by that which was written by one of them, which I mentioned before with honour. Nevertheless I note, there is not an indifferent hand carried towards these pamphlets as they deserve; for the one sort flieth in the dark, and the other is uttered openly; wherein I might advise that side out of a wise writer, who hath set it down, that "punitis ingeniis gliscit auctoritas."

And indeed we see it ever falleth out, that the forbidden writing is always thought to be certain sparks of a truth that fly up into the faces of those that seek to choke it, and tread it out; whereas a book authorised is thought to be but "temporis voces," the language of the time. But in plain truth I do find, to mine understanding, these pamphlets as meet to be suppressed as the other. First, because as the former sort doth deface the government of the Church in the persons of the bishops and prelates, so the other doth lead into contempt the exercises of religion in the persons of sundry preachers; so as it disgraceth an higher matter, though in the meaner person.

Next, I find certain indiscreet and dangerous amplifications, as if the civil government itself of this state had near lost the force of her sinews, and were ready to enter into some convulsion, all things being full of faction and disorder; which is as unjustly acknowledged, as untruly affirmed. I know his meaning is to enforce this irreverent and violent impugning of the government of bishops to be a sus-

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pected forerunner of a more general contempt. And I grant there is a sympathy between the estates; but no such matter in the civil policy, as deserveth so dishonourable a taxation.

To conclude this point: As it were to be wished that these writings had been abortive, and never seen the sun; so the next is, since they be come abroad, that they be censured, by all that have understanding and conscience, as the intemperate extravagancies of some light persons. Yea farther, that men beware, except they mean to adventure to deprive themselves of all sense of religion, and to pave their own hearts, and make them as the high way, how they may be conversant in them, and much more how they delight in that vein; but rather to turn their laughing into blushing, and to be ashamed, as of a short madness, that they have in matters of religion taken their disport and solace. But this, perchance, is of these faults which will be soonest acknowledged; though I perceive, nevertheless, that there want not some who seek to blanch and excuse it.

But to descend to a sincere view and consideration of the accidents and circumstances of these controversies, wherein either part deserveth blame or imputation, I find generally, in causes of Church matters, that men do offend in some or all of these five points.

The first is, the giving occasion unto the controversies: and also the inconsiderate and ungrounded taking of occasion.

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The next is, the extending and multiplying the controversies to a more general opposition or contradiction than appeareth at the first propounding of them, when men's judgments are least partial.

The third is, the passionate and unbrotherly practices and proceedings of both parts towards the persons each of others, for their discredit and suppression.

The fourth is, the courses holden and entertained on either side, for the drawing of their partisans to a more strait union within themselves, which ever importeth a farther distraction of the intire body.

The last is, the undue and inconvenient propounding, publishing, and debating of the controversies. In which point the most palpable error hath been already spoken of, as that, which through the strangeness and freshness of the abuse first offereth itself to the conceits of all men.

Now concerning the occasion of the controversies, it cannot be denied, but that the imperfections in the conversation and government of those which have chief place in the Church, have ever been principal causes and motives of schisms and divisions. For whilst the bishops and governors of the Church continue full of knowledge and good works; whilst they feed the flock indeed; whilst they deal with the secular states in all liberty and resolution, according to the majesty of their calling, and the precious care of souls imposed upon them, so long the Church is "situated" as it were "upon an hill;" no man

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maketh question of it, or seeketh to depart from it: but when these virtues in the fathers and leaders of the Church have lost their light, and that they wax worldly, lovers of themselves, and pleasers of men, then men begin to grope for the Church as in the dark; they are in doubt whether they be the successors of the apostles, or of the Pharisees; yea, howsoever they sit in Moses' chair, yet they can never speak, "tanquam auctoritatem habentes," as having authority, because they have lost their reputation in the consciences of men, by declining their steps from the way which they trace out to others; so as men had need continually have sounding in their ears this same "Nolite exire," go not out; so ready are they to depart from the Church upon every voice. And therefore it is truly noted by one that writeth as a natural man, that the humility of the friars did, for a great time, maintain and bear out the irreligion of bishops and prelates.

For this is the double policy of the spiritual enemy, either by counterfeit holiness of life to establish and authorise errors; or by corruption of manners to discredit and draw in question truth and things lawful. This concerneth my lords the bishops, unto whom I am witness to myself, that I stand affected as I ought. No contradiction hath supplanted in me the reverence that I owe to their calling; neither hath any detraction or calumny imbased mine opinion of their persons. I know some of them, whose names are most pierced with these accusations, to be men of great virtues; although the in-

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disposition of the times, and the want of correspondence many ways, is enough to frustrate the best endeavours in the edifying of the Church. And for the rest, generally, I can condemn none. I am no judge of them that belong to so high a Master; neither have I "two witnesses." And I know it is truly said of fame, that

"Pariter facta, atque infecta canebat."

Their taxations arise not all from one coast; they have many and different enemies ready to invent slander, more ready to amplify it, and most ready to believe it. And "Magnes mendacii credulitas;" credulity is the adamant of lies. But if any be, against whom the Supreme Bishop hath not a few things, but many things; if any have lost his first love; if any be neither hot nor cold; if any have stumbled too fondly at the threshold, in such sort that he cannot sit well, that entered ill; it is time they return whence they are fallen, and confirm the things that remain.

Great is the weight of this fault; "et eorum causa abhorrebant homines a sacrificio Domini:" and for their cause did men abhor the adoration of God. But howsoever it be, those which have sought to deface them, and cast contempt upon them, are not to be excused.

It is the precept of Solomon, that the rulers be not reproached; no, not in our thought: but that we draw our very conceit into a modest interpretation of their doings. The holy angel would give no sentence of blasphemy against the common slanderer, but said, "Increpet te Dominus," the Lord

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rebuke thee. The Apostle St. Paul, though against him that did pollute sacred justice with tyrannous violence, did justly denounce the judgment of God, saying, "Percutiet te Dominus," the Lord will strike thee; yet in saying "paries dealbate," he thought he had gone too far, and retracted it: whereupon a learned father said, "ipsum quamvis inane nomen, et umbram sacerdotis expavit."

The ancient councils and synods, as is noted by the ecclesiastical story, when they deprived any bishop, never recorded the offence; but buried it in perpetual silence: only Cham purchased his curse by revealing his father's disgrace; and yet a much greater fault is it to ascend from their person to their calling, and draw that in question. Many good fathers spake rigorously and severely of the unworthiness of bishops; as if presently it did forfeit, and cease their office. One saith, "Sacerdotes nominamur, et non sumus," we are called priests, but priests we are not. Another saith, "Nisi bonum opus amplectaris, episcopus esse non potes;" except thou undertake the good work, thou canst not be a bishop; yet they meant nothing less than to move doubt of their calling or ordination.

The second occasion of controversies, is the nature and humour of some men. The Church never wanteth a kind of persons, which love the salutation of Rabbi, master; not in ceremony or compliment, but in an inward authority which they seek over men's minds, in drawing them to depend upon their opinions, and to seek knowledge at their lips. These

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men are the true successors of Diotrephes, the lover of pre-eminence, and not lord bishops. Such spirits do light upon another sort of natures, which do adhere to these men; "quorum gloria in obsequio;" stiff followers, and such as zeal marvellously for those whom they have chosen for their masters. This latter sort, for the most part, are men of young years, and superficial understanding, carried away with partial respects of persons, or with the enticing appearance of godly names and pretences; "Pauci res ipsas sequuntur, plures nomina rerum, plurimi nomina magistrorum:" few follow the things themselves, more the names of the things, and most the names of their masters.

About these general affections are wreathed and interlaced accidental and private emulations and discontentments, all which together break forth into contentions; such as either violate truth, sobriety, or peace. These generalities apply themselves. The universities are the seat or the continent of this disease, whence it hath been, and is derived into the rest of the realm. There men will no longer be "e numero," of the number. There do others side themselves before they know their right hand from their left: so it is true which is said, "transeunt ab ignorantia ad præjudicium," they skip from ignorance to a prejudicate opinion, and never take a sound judgment in their way. But as it is well noted, "inter juvenile judicium et senile præjudicium, omnis veritas corrumpitur:" through want of years, when men are not indifferent, but partial, then their

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judgment is weak and unripe; and when it groweth to strength and ripeness, by that time it is forestalled with such a number of prejudicate opinions, as it is made unprofitable: so as between these two all truth is corrupted. In the mean while, the honourable names of sincerity, reformation, and discipline are put in the fore-ward: so as contentions and evil zeals cannot be touched, except these holy things be thought first to be violated. But howsoever they shall infer the solicitation for the peace of the Church to proceed from carnal sense, yet I will conclude ever with the apostle Paul, "Cum sit inter vos zelus et contentio, nonne carnales estis?" While there is amongst you zeal and contention, are ye not carnal? And howsoever they esteem the compounding of controversies to savour of man's wisdom and human policy, and think themselves led by the wisdom which is from above, yet I say, with St. James, "Non est ista sapientia de sursum descendens, sed terrena, animalis, diabolica: ubi enim zelus et contentio, ibi inconstantia et omne opus pravum." Of this inconstancy it is said by a learned father, "Procedere volunt non ad perfectionem, sed ad permutationem;" they seek to go forward still, not to perfection, but to change.

The third occasion of controversies I observe to be, an extreme and unlimited detestation of some former heresy or corruption of the Church already acknowledged and convicted. This was the cause that produced the heresy of Arius, grounded especially upon detestation of Gentilism, lest the Chris-

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tian should seem, by the assertion of the equal divinity of our Saviour Christ, to approach unto the acknowledgement of more gods than one. The detestation of the heresy of Arius produced that of Sabellius; who, holding for execrable the dissimilitude which Arius pretended in the Trinity, fled so far from him, as he fell upon that other extremity, to deny the distinction of persons; and to say, they were but only names of several offices and dispensations. Yea, most of the heresies and schisms of the Church have sprung up of this root; while men have made it as it were their scale, by which to measure the bounds of the most perfect religion; taking it by the farthest distance from the error last condemned. These be "posthumi hæresium filii;" heresies that arise out of the ashes of other heresies that are extinct and amortised.

This manner of apprehension doth in some degree possess many in our times. They think it the true touchstone to try what is good and evil, by measuring what is more or less opposite to the institutions of the church of Rome, be it ceremony, be it policy, or government; yea, be it other institutions of greater weight, that is ever most perfect which is removed most degrees from that Church; and that is ever polluted and blemished, which participateth in any appearance with it. This is a subtile and dangerous conceit for men to entertain; apt to delude themselves, more apt to delude the people, and most apt of all to calumniate their adversaries. This surely, but that a notorious condemnation of that position

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was before our eyes, had long since brought us to the re-baptisation of children baptised according to the pretended catholic religion: for I see that which is a matter of much like reason, which is the re-ordaining of priests, is a matter already resolutely maintained. It is very meet that men beware how they be abused by this opinion; and that they know, that it is a consideration of much greater wisdom and sobriety to be well advised, whether in general demolition of the institutions of the church of Rome, there were not, as men's actions are imperfect, some good purged with the bad, rather than to purge the Church, as they pretend, every day anew; which is the way to make a wound in the bowels, as is already begun.

The fourth and last occasion of these controversies, a matter which did also trouble the Church in former times, is the partial affectation and imitation of foreign churches. For many of our men, during the time of persecution, and since, having been conversant in Churches abroad, and received a great impression of the form of government there ordained, have violently sought to intrude the same upon our Church. But I answer, "Consentiamus in eo quod convenit, non in eo quod receptum est;" let us agree in this, that every church do that which is convenient for the state of itself, and not in particular customs. Although their churches had received the better form, yet many times it is to be sought, "non quod optimum, sed e bonis quid proximum;" not that which is best, but of good things which is the best and

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readiest to be had. Our Church is not now to plant; it is settled and established. It may be, in civil states, a republic is a better policy than a kingdom: yet, God forbid that lawful kingdoms should be tied to innovate and make alterations. "Qui mala introducit, voluntatem Dei oppugnat revelatam in verbo; qui nova introducit, voluntatem Dei oppugnat revelatam in rebus;" he that bringeth in evil customs, resisteth the will of God revealed in his word; he that bringeth in new things, resisteth the will of God revealed in the things themselves. "Consule providentiam Dei, cum verbo Dei;" take counsel of the providence of God, as well as of his word. Neither yet do I admit that their form, although it were possible and convenient, is better than ours, if some abuses were taken away. The parity and equality of ministers is a thing of wonderful great confusion, and so is an ordinary government by synods, which doth necessarily ensue upon the other.

It is hard in all causes, but especially in religion, when voices shall be numbered and not weighed: "Equidem," saith a wise father, "ut vere quod res est scribam, prorsus decrevi fugere omnem conventum episcoporum; nullius enim concilii bonum exitum unquam vidi; concilia enim non minuunt mala, sed augent potius:" To say the truth, I am utterly determined never to come to any council of bishops: for I never yet saw good end of any council; for councils abate not ill things, but rather increase them. Which is to be understood not so much of general councils, as of synods, gathered for

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the ordinary government of the Church. As for the deprivation of bishops, and such like causes, this mischief hath taught the use of archbishops, patriarchs, and primates; as the abuse of them since hath taught men to mislike them.

But it will be said, Look to the fruits of the churches abroad and ours. To which I say, that I beseech the Lord to multiply his blessings and graces upon those churches an hundred fold. But yet it is not good, that we fall on the numbering of them; it may be our peace hath made us more wanton: it may be also, though I would be loth to derogate from the honour of those churches, were it not to remove scandals, that their fruits are as torches in the dark, which appear greatest afar off. I know they may have some strict orders for the repressing of sundry excesses: but when I consider of the censures of some persons, as well upon particular men as upon churches, I think on the saying of a Platonist, who saith, "Certe vitia irascibilis partis animæ sunt gradu praviora, quam concupiscibilis, tametsi occultiora;" a matter that appeared much by the ancient contentions of bishops. God grant that we may contend with other churches, as the vine with the olive, which of us shall bear the first fruit; and not as the brier with the thistle, which of us is most unprofitable. And thus much touching the occasions of these controversies.

Now, briefly to set down the growth and progression of the controversies; whereby will be verified the saying of Solomon, that "the course of con-

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tention is to be stopped at the first; being else as the waters, which if they gain a breach, it will hardly ever be recovered."

It may be remembered, that on that part, which calls for reformation, was first propounded some dislike of certain ceremonies supposed to be superstitious; some complaint of dumb ministers who possess rich benefices; and some invectives against the idle and monastical continuance within the universities, by those who had livings to be resident upon; and such like abuses. Thence they went on to condemn the government of bishops as an hierarchy remaining to us of the corruptions of the Roman church, and to except to sundry institutions in the Church, as not sufficiently delivered from the pollutions of former times. And lastly, they are advanced to define of an only and perpetual form of policy in the Church; which, without consideration of possibility, and foresight of peril, and perturbation of the Church and State, must be erected and planted by the magistrate. Here they stay. Others, not able to keep footing in so steep ground, descend farther; That the same must be entered into and accepted of the people, at their peril, without the attending of the establishment of authority. And so in the mean time they refuse to communicate with us, reputing us to have no Church. This has been the progression of that side: I mean of the generality. For, I know, some persons, being of the nature, not only to love extremities, but also to fall to them without degrees, were at the highest strain at the first.

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The other part, which maintaineth the present government of the Church, hath not kept one tenor neither. First, those ceremonies which were pretended to be corrupt, they maintained to be things indifferent, and opposed the examples of the good times of the Church to that challenge which was made unto them, because they were used in the later superstitious times. Then were they also content mildly to acknowledge many imperfections in the Church: as tares come up amongst the corn; which yet, according to the wisdom taught by our Saviour, were not with strife to be pulled up, lest it might spoil and supplant the good corn, but to grow on together till the harvest. After, they grew to a more absolute defence and maintenance of all the orders of the Church, and stiffly to hold, that nothing was to be innovated; partly because it needed not, partly because it would make a breach upon the rest. Hence, exasperated through contentions, they are fallen to a direct condemnation of the contrary part, as of a sect. Yea, and some indiscreet persons have been bold in open preaching to use dishonourable and derogatory speech and censure of the churches abroad; and that so far, as some of our men, as I have heard, ordained in foreign parts, have been pronounced to be no lawful ministers. Thus we see the beginnings were modest, but the extremes are violent; so as there is almost as great a distance now of either side from itself, as was at the first of one from the other. And surely, though my meaning and scope be not, as I said before, to enter into

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the controversies themselves, yet I do admonish the maintainers of the alone discipline, to weigh and consider seriously and attentively, how near they are unto them, with whom, I know, they will not join. It is very hard to affirm, that the discipline, which they say we want, is one of the essential parts of the worship of God; and not to affirm withal, that the people themselves, upon peril of salvation, without staying for the magistrate, are to gather themselves into it. I demand, if a civil state should receive the preaching of the word and baptism, and interdict and exclude the sacrament of the Lord's supper, were not men bound upon danger of their souls to draw themselves to congregations, wherein they might celebrate this mystery, and not to content themselves with that part of God's worship which the magistrate had authorised? This I speak, not to draw them into the mislike of others, but into a more deep consideration of themselves: "Fortasse non redeunt, quia suum progressum non intelligunt."

Again, to my lords the bishops I say, that it is hard for them to avoid blame, in the opinion of an indifferent person, in standing so precisely upon altering nothing: "leges, novis legibus non recreatæ, acescunt;" laws, not refreshed with new laws, wax sour. "Qui mala non permutat, in bonis non perseverat:" without change of ill, a man cannot continue the good. To take away many abuses, supplanteth not good orders, but establisheth them. "Morosa moris retentio, res turbulenta est, æque ac novitas;" a contentious retaining of custom is a tur-

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bulent thing, as well as innovation. A good husband is ever pruning in his vineyard or his field; not unseasonably, indeed, not unskilfully, but lightly; he findeth ever somewhat to do. We have heard of no offers of the bishops of bills in parliament; which, no doubt, proceeding from them to whom it properly belongeth, would have every where received acceptation. Their own constitutions and orders have reformed them little. Is nothing amiss? Can any man defend the use of excommunication as a base process to lackey up and down for duties and fees; it being a precursory judgment of the latter day?

Is there no mean to train and nurse up ministers, for the yield of the universities will not serve, though they were never so well governed; to train them, I say, not to preach, for that every man confidently adventureth to do, but to preach soundly, and to handle the Scriptures with wisdom and judgment? I know prophesying was subject to great abuse, and would be more abused now; because heat of contentions is increased: but I say the only reason of the abuse was, because there was admitted to it a popular auditory; and it was not contained within a private conference of ministers. Other things might be spoken of. I pray God to inspire the bishops with a fervent love and care of the people; and that they may not so much urge things in controversy, as things out of controversy, which all men confess to be gracious and good. And thus much for the second point.

Now, as to the third point, of unbrotherly pro-

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ceeding on either part, it is directly contrary to my purpose to amplify wrongs: it is enough to note and number them; which I do also, to move compassion and remorse on the offending side, and not to animate challengers and complaints on the other. And this point, as reason is, doth chiefly touch that side which can do most: "Injuriæ potentiorum sunt;" injuries come from them that have the upper hand.

The wrongs of them which are possessed of the government of the Church towards the other, may hardly be dissembled or excused: they have charged them as though they denied tribute to Cæsar, and withdrew from the civil magistrate the obedience which they have ever performed and taught. They have sorted and coupled them with the "Family of love," whose heresies they have laboured to destroy and confute. They have been swift of credit to receive accusations against them, from those that have quarrelled with them, but for speaking against sin and vice. Their accusations and inquisitions have been strict, swearing men to blanks and generalities, not included within compass of matter certain, which the party which is to take the oath may comprehend, which is a thing captious and strainable. Their urging of subscription to their own articles, is but "lacessere, et irritare morbos Ecclesiæ," which otherwise would spend and exercise themselves. "Non consensum quærit sed dissidium, qui, quod factis præstatur, in verbis exigit:" He seeketh not unity, but division, which exacteth that in words, which men are content to yield in action. And it is true,

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there are some which, as I am persuaded, will not easily offend by inconformity, who notwithstanding make some conscience to subscribe; for they know this note of inconstancy and defection from that which they have long held, shall disable them to do that good which otherwise they might do: for such is the weakness of many, that their ministry should be thereby discredited. As for their easy silencing of them, in such great scarcity of preachers, it is to punish the people, and not them. Ought they not, I mean the bishops, to keep one eye open, to look upon the good that those men do, not to fix them both upon the hurt that they suppose cometh by them? Indeed, such as are intemperate and incorrigible, God forbid they should be permitted to preach: but shall every inconsiderate word, sometimes captiously watched, and for the most part hardly enforced, be as a forfeiture of their voice and gift in preaching? As for sundry particular molestations, I take no pleasure to recite them. If a minister shall be troubled for saying in baptism, "do you believe?" for, "dost thou believe?" If another shall be called in question for praying for her majesty, without the additions of her stile; whereas the very form of prayer in the book of Common-Prayer hath, "Thy servant Elizabeth," and no more: If a third shall be accused, upon these words uttered touching the controversies, "tollatur lex, et fiat certamen," whereby was meant, that the prejudice of the law removed, either reasons should be equally compared, of calling the people to sedition

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and mutiny, as if he had said, Away with the law, and try it out with force: If these and other like particulars be true, which I have but by rumour, and cannot affirm; it is to be lamented that they should labour amongst us with so little comfort. I know restrained governments are better than remiss; and I am of his mind that said, Better is it to live where nothing is lawful, than where all things are lawful. I dislike that laws should not be continued, or disturbers be unpunished: but laws are likened to the grape, that being too much pressed yields an hard and unwholesome wine. Of these things I must say; "Ira viri non operatur justitiam Dei;" the wrath of man worketh not the righteousness of God.

As for the injuries of the other part, they be "ictus inermes;" as it were headless arrows; they be fiery and eager invectives, and, in some fond men, uncivil and irreverent behaviour towards their superiors. This last invention also, which exposeth them to derision and obloquy by libels, chargeth not, as I am persuaded, the whole side: neither doth that other, which is yet more odious, practised by the worst sort of them; which is, to call in, as it were to their aids, certain mercenary bands, which impugn bishops, and other ecclesiastical dignities, to have the spoil of their endowments and livings: of these I cannot speak too hardly. It is an intelligence between incendiaries and robbers, the one to fire the house, the other to rifle it.

The fourth point wholly pertaineth to them

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which impugn the present ecclesiastical government; who although they have not cut themselves off from the body and communion of the Church, yet do they affect certain cognisances and differences, wherein they seek to correspond amongst themselves, and to be separate from others. And it is truly said, "tam sunt mores quidam schismatici, quam dogmata schismatica;" there be as well schismatical fashions as opinions. First, they have impropriated unto themselves the names of zealous, sincere, and reformed; as if all others were cold minglers of holy things and profane, and friends of abuses. Yea, be a man endued with great virtues, and fruitful in good works; yet if he concur not with them, they term him, in derogation, a civil and moral man, and compare him to Socrates, or some heathen philosopher: whereas the wisdom of the Scriptures teacheth us otherwise; namely, to judge and denominate men religious according to their works of the second table; because they of the first are often counterfeit, and practised in hypocrisy. So St. John saith, that "a man doth vainly boast of loving God whom he never saw, if he love not his brother whom he hath seen." And St. James saith, "This is true religion, to visit the fatherless and the widow." So as that which is with them but philosophical and moral, is, in the apostle's phrase, "true religion and Christianity." As in affection they challenge the said virtues of zeal and the rest; so in knowledge they attribute unto themselves light and perfection. They say, the Church of England in King Edward's

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time, and in the beginning of her majesty's reign, was but in the cradle; and the bishops in those times did somewhat grope for day-break, but that maturity and fulness of light proceedeth from themselves. So Sabinius, bishop of Heraclea, a Macedonian heretic, said, that the fathers in the council of Nice were but infants and ignorant men: that the Church was not so perfect in their decrees as to refuse that farther ripeness of knowledge which time had revealed. And as they censure virtuous men by the names of civil and moral, so do they censure men truly and godly wise, who see into the vanity of their affections, by the name of politics; saying, that their wisdom is but carnal and savouring of man's brain. So likewise if a preacher preach with care and meditation, I speak not of the vain scholastical manner of preaching, but soundly indeed, ordering the matter he handleth distinctly for memory, deducting and drawing it down for direction, and authorising it with strong proofs and warrants, they censure it as a form of speaking not becoming the simplicity of the gospel, and refer it to the reprehension of St. Paul, speaking of the "enticing speech of man's wisdom."

Now for their own manner of preaching, what is it? Surely they exhort well, and work compunction of mind, and bring men well to the question, "Viri, fratres, quid faciemus?" But that is not enough, except they resolve the question. They handle matters of controversy weakly, and "obiter," and as before a people that will accept of any thing. In

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doctrine of manners there is little but generality and repetition. The word, the bread of life, they toss up and down, they break it not: they draw not their directions down "ad casus conscientiæ;" that a man may be warranted in his particular actions whether they be lawful or not; neither indeed are many of them able to do it, what through want of grounded knowledge, what through want of study and time. It is a compendious and easy thing to call for the observation of the sabbath-day, or to speak against unlawful gain; but what actions and works may be done upon the sabbath, and what not; and what courses of gain are lawful, and in what cases: to set this down, and to clear the whole matter with good distinctions and decisions, is a matter of great knowledge and labour, and asketh much meditation and conversing in the Scriptures, and other helps which God hath provided and preserved for instruction.

Again, they carry not an equal hand in teaching the people their lawful liberty, as well as their restraints and prohibitions: but they think a man cannot go too far in that that hath a shew of a commandment.

They forget that there are sins on the right hand, as well as on the left; and that the word is double-edged, and cutteth on both sides, as well the profane transgressions as the superstitious observances. Who doubteth but that it is as unlawful to shut where God hath opened, as to open where God hath shut; to bind where God hath loosed, as to

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loose where God hath bound? Amongst men it is commonly as ill taken to turn back favours, as to disobey commandments. In this kind of zeal, for example, they have pronounced generally, and without difference, all untruths unlawful; notwithstanding, that the midwives are directly reported to have been blessed for their excuse; and Rahab is said by faith to have concealed the spies; and Solomon's selected judgment proceeded upon a simulation; and our Saviour, the more to touch the hearts of the two disciples with an holy dalliance, made as if he would have passed Emmaus. Farther, I have heard some sermons of mortification, which, I think, with very good meaning, they have preached out of their own experience and exercise, and things in private counsels not unmeet; but surely no sound conceits, much like to Parsons "Resolution," or not so good; apt to bread in men rather weak opinions and perplexed despairs, than filial and true repentance which is sought.

Another point of great inconvenience and peril, is to entitle the people to hear controversies, and all kinds of doctrine. They say no part of the counsel of God is to be suppressed, nor the people defrauded: so as the difference which the Apostle maketh between milk and strong meat is confounded: and his precept, that the weak be not admitted unto questions and controversies, taketh no place.

But most of all is to be suspected, as a seed of farther inconvenience, their manner of handling the Scriptures; for whilst they seek express Scripture

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for every thing; and that they have, in a manner, deprived themselves and the Church of a special help and support, by embasing the authority of the fathers, they resort to naked examples, conceited inferences, and forced allusions, such as do mine into all certainty of religion.

Another extremity is the excessive magnifying of that, which though it be a principal and most holy institution, yet hath its limits, as all things else have. We see wheresoever, in a manner, they find in the Scriptures the word spoken of, they expound it of preaching; they have made it, in a manner, of the essence of the sacrament of the Lord's supper, to have a sermon precedent; they have, in a sort, annihilated the use of liturgies, and forms of divine service, although the house of God be denominated of the principal, "domus orationis," a house of prayer, and not a house of preaching. As for the life of the good monks and hermits in the primitive Church, I know, they will condemn a man as half a papist, if he should maintain them as other than profane, because they heard no sermons. In the mean time, what preaching is, and who may be said to preach, they move no question; but, as far as I see, every man that presumeth to speak in chair, is accounted a preacher. But I am assured, that not a few that call hotly for a preaching ministry, deserve to be the first themselves that should be expelled. All which errors and misproceedings they do fortify and intrench by an addicted respect to their own opinions, and an impatience to hear contradiction or argu-

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ment; yea, I know some of them that would think it a tempting of God, to hear or read what may be said against them; as if there could be a "quod bonum est, tenete;" without an "omnia probate," going before.

This may suffice to offer unto themselves a thought and consideration, whether in these things they do well or no? and to correct and assuage the partiality of their followers. For as for any man that shall hereby enter into a contempt of their ministry, it is but his own hardness of heart. I know the work of exhortation doth chiefly rest upon these men, and they have zeal and hate of sin: But again, let them take heed that it be not true which one of their adversaries said, that they have but two small wants, knowledge, and love. And so I conclude this point.

The last point, touching the due publishing and debating of these controversies, needeth no long speech. This strange abuse of antiques and pasquils hath been touched before: so likewise I repeat that which I said, that a character of love is more proper for debates of this nature, than that of zeal. As for all direct or indirect glances, or levels at men's persons, they were ever in these causes disallowed.

Lastly, whatsoever be pretended, the people is no meet arbitrator, but rather the quiet, modest, and private assemblies, and conferences of the learned. "Qui apud incapacem loquitur, non disceptat, sed calumniatur." The press and pulpit would be freed and discharged of these contentions; neither pro-

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motion on the one side, nor glory and heat on the other side, ought to continue those challenges and cartels at the cross and other places; but rather all preachers, especially such as be of good temper, and have wisdom with conscience, ought to inculcate and beat upon a peace, silence, and surseance. Neither let them fear Solon's law, which compelled in factions every particular person to range himself on the one side; nor yet the fond calumny of neutrality; but let them know that is true which is said by a wise man, That neuters in contentions are either better or worse than either side.

These things have I in all sincerity and simplicity set down, touching the controversies which now trouble the Church of England; and that without all art and insinuation, and therefore not like to be grateful to either part: Notwithstanding, I trust what hath been said shall find a correspondence in their minds which are not embarked in partiality, and which love the whole better than a part; wherefore I am not out of hope that it may do good; at the least I shall not repent myself of the meditation.

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CERTAIN CONSIDERATIONS TOUCHING THE BETTER PACIFICATION AND EDIFICATION OF THE CHURCH OF ENGLAND.

DEDICATED TO HIS MOST EXCELLENT MAJESTY.

THE unity of your Church, excellent Sovereign, is a thing no less precious than the union of your kingdoms; being both works wherein your happiness may contend with your worthiness. Having therefore presumed, not without your majesty's gracious acceptation, to say somewhat on the one, I am the more encouraged not to be silent in the other: the rather, because it is an argument that I have travelled in heretofore.* But Solomon commendeth a word spoken in season; and as our Saviour, speaking of the discerning of seasons, saith, "When you see a cloud rising in the west, you say it will be a shower:" so your Majesty's rising to this monarchy in the west parts of the world, doth promise a sweet and fruitful shower of many blessings upon this Church and commonwealth; a shower of that influence as the very first dews and drops thereof have already laid the storms and winds throughout Christendom; reducing the very face of Europe to a more peaceable and amiable countenance. But to the purpose.

* Vide page 28.

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It is very true, that these ecclesiastical matters are things not properly appertaining to my profession; which I was not so inconsiderate but to object to myself: but finding that it is many times seen that a man that standeth off, and somewhat removed from a plot of ground, doth better survey it and discover it than those which are upon it, I thought it not impossible, but that I, as a looker on, might cast mine eyes upon some things which the actors themselves, especially some being interested, some led and addicted, some declared and engaged, did not or would not see. And that knowing in my conscience, whereto God beareth witness, that the things which I shall speak, spring out of no vein of popularity, ostentation, desire of novelty, partiality to either side, disposition to intermeddle, or any the like leaven; I may conceive hope, that what I want in depth of judgment may be countervailed in simplicity and sincerity of affection. But of all things this did most animate me; that I found in these opinions of mine, which I have long held and embraced, as may appear by that which I have many years since written of them, according to the proportion nevertheless of my weakness, a consent and conformity with that which your Majesty hath published of your own most Christian, most wise, and moderate sense, in these causes; wherein you have well expressed to the world, that there is infused in your sacred breast, from God, that high principle and position of government, That you ever hold the whole more dear than any part.

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For who seeth not that many are affected, and give opinion in these matters, as if they had not so much a desire to purge the evil from the good, as to countenance and protect the evil by the good? Others speak as if their scope were only to set forth what is good, and not to seek what is possible; which is to wish, and not to propound. Others proceed as if they had rather a mind of removing than of reforming. But howsoever either side, as men, though excellent men, shall run into extremities; yet your Majesty, as a most wise, equal, and Christian moderator, is disposed to find out the golden mediocrity in the establishment of that which is sound, and in the reparation of that which is corrupt and decayed. To your princely judgment then I do in all humbleness submit whatsoever I shall propound, offering the same but as a mite into the treasury of your wisdom. For as the astronomers do well observe, that when three of the superior lights do meet in conjunction, it bringeth forth some admirable effects: so there being joined in your Majesty the light of nature, the light of learning, and, above all, the light of God's Holy Spirit; it cannot be but your government must be as a happy constellation over the states of your kingdoms. Neither is there wanting to your Majesty that fourth light, which though it be but a borrowed light, yet is of singular efficacy and moment added to the rest, which is the light of a most wise and well compounded council; to whose honourable and grave wisdoms I do likewise submit whatsoever I

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shall speak, hoping that I shall not need to make protestation of my mind and opinion; That, until your Majesty doth otherwise determine and order, all actual and full obedience is to be given to ecclesiastical jurisdiction as it now standeth; and, when your Majesty hath determined and ordered, that every good subject ought to rest satisfied, and apply his obedience to your Majesty's laws, ordinances, and royal commandments; nor of the dislike I have of all immodest bitterness, peremptory presumption, popular handling, and other courses, tending rather to rumour and impression in the vulgar sort, than to likelihood of effect joined with observation of duty.

But before I enter into the points controverted, I think good to remove, if it may be, two opinions, which directly confront and oppone to reformation: the one bringing it to a nullity, and the other to an impossibility. The first is, that it is against good policy to innovate any thing in Church matters; the other, that all reformation must be after one platform.

For the first of these, it is excellently said by the prophet; "State super vias antiquas, et videte, quænam sit via recta et vera, et ambulate in ea." So as he doth not say, "State super vias antiquas, et ambulate in eis:" For it is true, that with all wise and moderate persons, custom and usage obtaineth that reverence, as it is sufficient matter to move them to make a stand, and to discover, and take a view; but it is no warrant to guide and conduct them: a just ground, I say, it is of deliberation, but not of

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direction. But on the other side, who knoweth not, that time is truly compared to a stream, that carrieth down fresh and pure waters into that salt sea of corruption which environeth all human actions? And therefore, if man shall not by his industry, virtue, and policy, as it were with the oar, row against the stream and inclination of time; all institutions and ordinances, be they never so pure, will corrupt and degenerate. But not to handle this matter common-place like, I would only ask, why the civil state should be purged and restored by good and wholesome laws, made every third or fourth year in parliament assembled; devising remedies as fast as time breedeth mischief: and contrariwise the ecclesiastical state should still continue upon the dregs of time, and receive no alteration now for these five and forty years and more? If any man shall object, that if the like intermission had been used in civil causes also, the error had not been great: surely the wisdom of the kingdom hath been otherwise in experience for three hundred years' space at the least. But if it be said to me, that there is a difference between civil causes and ecclesiastical, they may as well tell me that churches and chapels need no reparations, though castles and houses do: whereas commonly, to speak truth, dilapidations of the inward and spiritual edifications of the Church of God are in all times as great as the outward and material. Sure I am that the very word and stile of reformation used by our Saviour, "ab initio non fuit sic," was applied to Church

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matters, and those of the highest nature, concerning the law moral.

Nevertheless, he were both unthankful and unwise, that would deny but that the Church of England, during the time of Queen Elizabeth, of famous memory, did flourish. If I should compare it with foreign churches, I would rather the comparison should be in the virtues, than, as some make it, in the defects; rather, I say, as between the vine and the olive, which should be most fruitful; and not as between the brier and the thistle, which should be most unprofitable. For that reverence should be used to the Church, which the good sons of Noah used to their father's nakedness; that is, as it were to go backwards, and to help the defects thereof, and yet to dissemble them. And it is to be acknowledged, that scarcely any Church, since the primitive Church, yielded, in like number of years and latitude of country, a greater number of excellent preachers, famous writers, and grave governors. But for the discipline and orders of the Church, as many, and the chiefest of them, are holy and good; so yet, if St. John were to indite an epistle to the Church of England, as he did to them of Asia, it would sure have the clause; "habeo adversus te pauca." And no more for this point, saving, that as an appendix thereto it is not amiss to touch that objection, which is made to the time, and not to the matter; pretending, that if reformation were necessary, yet it were not now seasonable at your Majesty's first entrance: yet Hippocrates saith, "Si quid

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moves, a principio move:" and the wisdom of all examples do shew, that the wisest princes, as they have ever been the most sparing in removing or alteration of servants and officers upon their coming in; so for removing of abuses and enormities, and for reforming of laws, and the policy of their states, they have chiefly sought to ennoble and commend their beginnings therewith; knowing that the first impression with people continueth long, and when men's minds are most in expectation and suspence, then are they best wrought and managed. And therefore it seemeth to me, that as the spring of nature, I mean the spring of the year, is the best time for purging and medicining the natural body, so the spring of kingdoms is the most proper season for the purging and rectifying of politic bodies.

There remaineth yet an objection, rather of suspicion than of reason; and yet such as I think maketh a great impression in the minds of very wise and well-affected persons; which is, that if way be given to mutation, though it be in taking away abuses, yet it may so acquaint men with sweetness of change, as it will undermine the stability even of that which is sound and good. This surely had been a good and true allegation in the ancient contentions and divisions between the people and the senate of Rome; where things were carried at the appetites of multitudes, which can never keep within the compass of any moderation: but these things being with us to have an orderly passage, under a king who hath a royal power and approved judg-

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ment, and knoweth as well the measure of things as the nature of them; it is surely a needless fear. For they need not doubt but your majesty, with the advice of your council, will discern what things are intermingled like the tares amongst the wheat, which have their roots so enwrapped and entangled, as the one cannot be pulled up without endangering the other; and what are mingled but as the chaff and the corn, which need but a fan to sift and sever them. So much therefore for the first point, of no reformation to be admitted at all.

For the second point, that there should be but one form of discipline in all churches, and that imposed by necessity of a commandment and prescript out of the word of God; it is a matter volumes have been compiled of, and therefore cannot receive a brief redargution. I for my part do confess, that in revolving the Scriptures I could never find any such thing: but that God had left the like liberty to the Church government, as he had done to the civil government; to be varied according to time, and place, and accidents, which nevertheless his high and divine providence doth order and dispose. For all civil governments are restrained from God unto the general grounds of justice and manners; but the policies and forms of them are left free: so that monarchies and kingdoms, senates and seignories, popular states, and communalities, are lawful, and where they are planted ought to be maintained inviolate.

So likewise in Church matters, the substance of

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doctrine is immutable; and so are the general rules of government: but for rites and ceremonies, and for the particular hierarchies, policies, and disciplines of churches, they be left at large. And therefore it is good we return unto the ancient bounds of unity in the Church of God; which was, one faith, one baptism; and not, one hierarchy, one discipline; and that we observe the league of Christians, as it is penned by our Saviour; which is in substance of doctrine this: "He that is not with us, is against us:" but in things indifferent, and but of circumstance this; "He that is not against us, is with us." In these things, so as the general rules be observed; that Christ's flock be fed; that there be a succession in bishops and ministers, which are the prophets of the New Testament; that there be a due and reverent use of the power of the keys; that those that preach the gospel, live of the gospel; that all things tend to edification; that all things be done in order and with decency, and the like: the rest is left to the holy wisdom and spiritual discretion of the master builders and inferior builders in Christ's Church; as it is excellently alluded by that father that noted, that Christ's garment was without seam; and yet the Church's garment was of divers colours: and thereupon setteth down for a rule; "in veste varietas sit, scissura non sit."

In which variety, nevertheless, it is a safe and wise course to follow good examples and precedents; but then by the rule of imitation and example to consider not only which are best, but which are the

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likeliest; as namely, the government of the Church in the purest times of the first good emperors that embraced the faith. For the times of persecution, before temporal princes received our faith, as they were excellent times for doctrine and manners, so they be improper and unlike examples of outward government and policy. And so much for this point: now to the particular points of controversies, or rather of reformation.

CIRCUMSTANCES IN THE GOVERNMENT OF BISHOPS.

First therefore, for the government of bishops, I for my part, not prejudging the precedents of other reformed churches, do hold it warranted by the word of God, and by the practice of the ancient Church in the better times, and much more convenient for kingdoms, than parity of ministers and government by synods. But then farther, it is to be considered, that the Church is not now to plant or build; but only to be pruned from corruption, and to be repaired and restored in some decays.

For it is worth the noting, that the Scripture saith, "Translato sacerdotio, necesse est ut et legis fiat translatio." It is not possible, in respect of the great and near sympathy between the state civil and the state ecclesiastical, to make so main an altera-

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tion in the Church, but it would have a perilous operation upon the kingdoms; and therefore it is fit that controversy be in peace and silence.

But there be two circumstances in the administration of bishops, wherein, I confess, I could never be satisfied; the one, the sole exercise of their authority; the other, the deputation of their authority.

For the first, the bishop giveth orders alone, excommunicateth alone, judgeth alone. This seemeth to be a thing almost without example in good government, and therefore not unlikely to have crept in in the degenerate and corrupt times. We see the greatest kings and monarchs have their councils. There is no temporal court in England of the higher sort where the authority doth rest in one person. The king's bench, common-pleas, and the exchequer, are benches of a certain number of judges. The chancellor of England hath an assistance of twelve masters of the chancery. The master of the wards hath a council of the court: so hath the chancellor of the duchy. In the exchequer-chamber, the lord treasurer is joined with the chancellor and the barons. The masters of the requests are ever more than one. The justices of assize are two. The lord presidents in the North and in Wales have councils of divers. The star-chamber is an assembly of the king's privy council, aspersed with the lords spiritual and temporal: so as in courts the principal person hath ever either colleagues or assessors.

The like is to be found in other well-governed commonwealths abroad, where the jurisdiction is yet

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more dispersed; as in the court of parliament of France, and in other places. No man will deny but the acts that pass the bishop's jurisdiction are of as great importance as those that pass the civil courts: for men's souls are more precious than their bodies or goods; and so are their good names. Bishops have their infirmities, and have no exception from that general malediction which is pronounced against all men living, "Væ soli, nam si occideret, &c." Nay, we see that the first warrant in spiritual causes is directed to a number, "Dic Ecclesiæ;" which is not so in temporal matters: and we see that in general causes of Church government, there are as well assemblies of all the clergy in councils, as of all the states in parliament. Whence should this sole exercise of jurisdiction come? Surely I do suppose, and, I think, upon good ground, that "ab initio non fuit ita;" and that the deans and chapters were councils about the sees and chairs of bishops at the first, and were unto them a presbytery or consistory; and intermeddled not only in the disposing of their revenues and endowments, but much more in jurisdiction ecclesiastical. But it is probable, that the deans and chapters stuck close to the bishops in matters of profit and the world, and would not lose their hold; but in matters of jurisdiction, which they accounted but trouble and attendance, they suffered the bishops to incroach and usurp; and so the one continueth, and the other is lost. And we see that the bishop of Rome, "fas enim et ab hoste doceri," and no question in that church the first institutions were excel-

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lent, performeth all ecclesiastical jurisdiction as in consistory.

And whereof consisteth this consistory, but of the parish-priests of Rome, which term themselves cardinals, "a cardinibus mundi;" because the bishop pretendeth to be universal over the whole world? And hereof again we see many shadows yet remaining: as, that the dean and chapter, "pro forma," chooseth the bishop, which is the highest point of jurisdiction: and that the bishop, when he giveth orders, if there be any ministers casually present, calleth them to join with him in imposition of hands, and some other particulars. And therefore it seemeth to me a thing reasonable and religious, and according to the first institution, that bishops, in the greatest causes, and those which require a spiritual discerning, namely, in ordaining, suspending, or depriving ministers, in excommunication, being restored to the true and proper use, as shall be afterwards touched, in sentencing the validity of marriages and legitimations, in judging causes criminous, as simony, incest, blasphemy, and the like, should not proceed sole and unassisted: which point, as I understand it, is a reformation that may be planted "sine strepitu," without any perturbation at all: and is a matter which will give strength to the bishops, countenance to the inferior degrees of prelates or ministers, and the better issue or proceeding to those causes that shall pass.

And as I wish this strength given to the bishops by council, so it is not unworthy your majesty's con-

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sideration, whether you shall not think fit to give strength to the general council of your clergy, the convocation-house, which was then restrained when the state of the clergy was thought a suspected part of the kingdom, in regard of their late homage to the bishop of Rome; which state now will give place to none in their loyalty and devotion to your majesty.

For the second point, which is the deputation of their authority, I see no perfect and sure ground for that neither, being somewhat different from the examples and rules of government. The bishop exerciseth his jurisdiction by his chancellor and commissary official, &c. We see in all laws in the world, offices of confidence and skill cannot be put over, nor exercised by deputy, except it be especially contained in the original grant; and in that case it is dutiful. And for experience, there was never any chancellor of England made a deputy; there was never any judge in any court made a deputy. The bishop is a judge and of a high nature; whence cometh it that he should depute, considering that all trust and confidence, as was said, is personal and inherent; and cannot, nor ought not to be transposed? Surely, in this, again, "ab initio non fuit sic:" but it is probable that bishops when they gave themselves too much to the glory of the world, and became grandees in kingdoms, and great counsellors to princes, then did they delegate their proper jurisdictions, as things of too inferior a nature for their greatness: and then, after the similitude and imitation of kings and counts

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palatine, they would have their chancellors and judges.

But that example of kings and potentates giveth no good defence. For the reasons why kings administer by their judges, although themselves are supreme judges, are two: the one, because the offices of kings are for the most part of inheritance; and it is a rule in all laws, that offices of inheritance are rather matters that ground in interest than in confidence: for as much as they may fall upon women, upon infants, upon lunatics and idiots, persons incapable to execute judicature in person; and therefore such offices by all laws might ever be exercised and administered by delegation. The second reason is, because of the amplitude of their jurisdictions; which is as great as either their birth-right from their ancestors, or their sword-right from God maketh it. And therefore if Moses, that was governor over no great people, and those collected together in a camp, and not scattered in provinces and cities, himself of an extraordinary spirit, was nevertheless not able to suffice and hold out in person to judge the people, but did, by the advice of Jethro approved from God, substitute elders and judges; how much more other kings and princes?

There is a third reason, likewise, though not much to the present purpose; and that is, that kings, either in respect of the commonwealth, or of the greatness of their own patrimonies, are usually parties in suits: and then their judges stand indifferent between them and the subject: but in the case of

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bishops, none of these reasons hold. For, first, their office is elective, and for life, and not patrimonial or hereditary; an office merely of confidence, science, and qualification. And for the second reason, it is true, that their jurisdiction is ample, and spacious; and that their time is to be divided between the labours as well in the word and doctrine, as in government and jurisdiction: but yet I do not see, supposing the bishop's courts to be used incorruptly, and without any indirect course held to multiply causes for gain of fees, but that the bishop might very well, for causes of moment, supply his judicial function in his own person. For we see before our eyes, that one chancellor of England dispatcheth the suits in equity of the whole kingdom: which is not so much by reason of the excellency of that rare honourable person which now holdeth the place: but it was ever so, though more or less burdenous to the suitor, as the chancellor was more or less able to give dispatch. And if hold be taken of that which was said before, that the bishop's labour in the word must take up a principal part of his time; so I may say again, that matters of state have ever taken up most of the chancellor's time; having been for the most part persons upon whom the kings of this realm have most relied for matters of counsel. And therefore there is no doubt but the bishop, whose circuit is less ample, and the causes in nature not so multiplying, with the help of references and certificates to and from fit persons, for the better ripening of causes in their mean proceedings, and such ordinary helps

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incident to jurisdiction, may very well suffice his office. But yet there is another help: for the causes that come before him, are these: tithes, legacies, administrations, and other testamentary causes; causes matrimonial; accusations against ministers, tending to their suspension, deprivation, or degrading; simony, incontinency, heresy, blasphemy, breach of the sabbath, and other like causes of scandal. The first two of these, in my opinion, differ from the rest; that is, tithes and testaments: for those be matters of profit, and in their nature temporal; though, by a favour and connivance of the temporal jurisdiction, they have been allowed and permitted to the courts ecclesiastical; the one, to the end the clergy might sue for that that was their sustentation before their own judges; and the other, in a kind of piety and religion, which was thought incident to the performance of dead men's wills. And surely for these two the bishop, in my opinion, may with less danger discharge himself upon his ordinary judges. And I think likewise it will fall out, that those suits are in the greatest number. But for the rest, which require a spiritual science and discretion, in respect of their nature, or of the scandal, it were reason, in my opinion, there were no audience given but by the bishop himself; he being also assisted, as was touched before: but it were necessary also he were attended by his chancellor, or some others his officers being learned in the civil laws, for his better instruction in points of formality, or the courses of the court: which if it were done, then were there

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less use of the official's court, whereof there is now so much complaint: and causes of the nature aforesaid being only drawn to the audience of the bishop, it would repress frivolous and prowling suits, and give a grave and incorrupt proceeding to such causes as shall be fit for the court.

There is a third point also, not of jurisdiction, but of form of proceeding, which may deserve reformation, the rather, because it is contrary to the laws and customs of this land and state, which though they do not rule those proceedings, yet may they be advised with for better directions; and that is the oath "ex officio:" whereby men are enforced to accuse themselves, and, that that is more, are sworn unto blanks, and not unto accusations and charges declared. By the law of England no man is bound to accuse himself. In the highest cases of treason, torture is used for discovery, and not for evidence. In capital matters, no delinquent's answer upon oath is required; no, not permitted. In criminal matters not capital, handled in the star-chamber, and in causes of conscience, handled in the chancery, for the most part grounded upon trust and secrecy, the oath of the party is required. But how? Where there is an accusation and an accuser, which we call bills of complaint, from which the complainant cannot vary, and out of the compass of the which the defendant may not be examined, exhibited unto the court, and by process notified unto the defendant. But to examine a man upon oath, out of the insinuation of fame, or out of accusations

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secret and undeclared, though it have some countenance from the civil law, yet it is so opposite "ex diametro" to the sense and course of the common law, as it may well receive some limitation.

CONCERNING THE LITURGY, THE CEREMONIES, AND SUBSCRIPTION.

For the liturgy, great respect and heed would be taken, lest by inveighing against the dumb ministry, due reverence be not withdrawn from the liturgy. For though the gift of preaching be far above that of reading; yet the action of the liturgy is as high and holy as that of the sermon. It is said, "Domus mea domus orationis vocabitur:" "the house of prayer," not the house of preaching: and whereas the Apostle saith, "How shall men call upon him, on whom they have not believed? And how shall they believe unless they hear? And how shall they hear, without a preacher?" it appeareth that as preaching is the more original, so prayer is the more final; as the difference is between the seed and the fruit: for the keeping of God's law, is the fruit of the teaching of the law; and prayer, or invocation, or divine service, or liturgy, for these be but varieties of terms, is the immediate hallowing of the name of God, and the principal work of the first table, and of the great commandment of the love of God. It is true that the preaching of the holy word of God is the

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sowing of the seed; it is the lifting up of the brazen serpent, the ministry of faith, and the ordinary means of salvation: but yet it is good to take example, how that the best actions of the worship of God may be extolled excessively and superstitiously. As the extolling of the sacrament bred the superstition of the mass; the extolling of the liturgy and prayers bred the superstition of the monastical orders and oraisons: and so no doubt preaching likewise may be magnified and extolled superstitiously, as if all the whole body of God's worship should be turned into an ear. So as none, as I suppose, of sound judgment, will derogate from the liturgy, if the form thereof be in all parts agreeable to the word of God, the example of the primitive Church, and that holy decency which St. Paul commendeth. And therefore, first, that there be a set form of prayer, and that it be not left either to an extemporal form, or to an arbitrary form. Secondly, that it consist as well of lauds, hymns, and thanksgivings, as of petitions, prayers, and supplications. Thirdly, that the form thereof be quickened with some shortness and diversities of prayers and hymns, and with some interchanges of the voice of the people, as well as of the minister. Fourthly, that it admit some distinctions of times, and commemorations of God's principal benefits, as well general as particular. Fifthly, that prayers likewise be appropriated to several necessities and occasions of the Church. Sixthly, that there be a form likewise of words and liturgy in the administration of the sacraments, and in the denouncing of

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the censures of the Church, and other holy actions and solemnities; these things, I think, will not be much controverted.

But for the particular exceptions to the liturgy in form as it now standeth, I think divers of them, allowing they were just, yet seem they not to be weighty; otherwise than that nothing ought to be counted light in matters of religion and piety; as the heathen himself could say, "etiam vultu sæpe læditur pietas." That the word, priest, should not be continued, especially with offence, the word, minister, being already made familiar. This may be said that it is a good rule in translation, never to confound that in one word in the translation, which is precisely distinguished in two words in the original, for doubt of equivocation and traducing. And therefore seeing the word πρεσβύτερος and ἱερεὺς be always distinguished in the original; and the one used for a sacrificer, the other for a minister; the word, priest, being made common to both, whatsoever the derivation be, yet in use it confoundeth the minister with the sacrificer. And for an example of this kind, I did ever allow the discretion and tenderness of the Rhemish translation in this point; that finding in the original the word ἀγάπη and never ἔρως, do ever translate charity, and never love, because of the indifferency and equivocation of the word with impure love.

Touching the absolution; it is not unworthy consideration, whether it may not be thought improper and unnecessary: for there are but two sorts

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of absolution; both supposing an obligation precedent; the one upon an excommunication, which is religious and primitive; the other upon confession and penance, which is superstitious, or at least positive; and both particular, and neither general. Therefore since the one is taken away, and the other hath its proper case, what doth a general absolution, wherein there is neither penance nor excommunication precedent? for the Church never looseth, but where the Church hath bound. And surely I may think this at the first was allowed in a kind of spiritual discretion, because the Church thought the people could not be suddenly weaned from their conceit of assoiling, to which they had been so long accustomed.

For confirmation, to my understanding, the state of the question is, whether it be not a matter mistaken and altered by time; and whether that be not now made a subsequent to baptism, which was indeed an inducement to the communion. For whereas in the primitive Church children were examined of their faith before they were admitted to the communion, time may seem to have turned it to refer as if it had been to receive a confirmation of their baptism.

For private baptism by women, or lay persons, the best divines do utterly condemn it; and I hear it not generally defended; and I have often marvelled, that where the book in the preface to public baptism doth acknowledge that baptism in the practice of the primitive Church was anniversary, and

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but at certain times; which sheweth that the primitive Church did not attribute so much to the ceremony, as they would break an outward and general order for it; the book should afterwards allow of private baptism, as if the ceremony were of that necessity, as the very institution, which committed baptism only to the ministers, should be broken in regard of the supposed necessity. And therefore this point of all others I think was but a "Concessum propter duritiem cordis."

For the form of celebrating matrimony, the ring seemeth to many even of vulgar sense and understanding, a ceremony not grave, especially to be made, as the words make it, the essential part of the action; besides, some other of the words are noted in speech to be not so decent and fit.

For music in churches; that there should be singing of psalms and spiritual songs, is not denied: so the question is "de modo;" wherein if a man will look attentively into the order and observation of it, it is easy to discern between the wisdom of the institution and the excess of the late times. For first there are no songs or verses sung by the quire, which are not supposed by continual use to be so familiar with the people, as they have them without book, whereby the sound hurteth not the understanding: and those which cannot read upon the book, are yet partakers of the sense, and may follow it with their mind. So again, after the reading of the word, it was thought fit there should be some

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pause for holy meditation, before they proceeded to the rest of the service: which pause was thought fit to be filled rather with some grave sound, than with a still silence; which was the reason of the playing upon the organs after the Scriptures read: all which was decent and tending to edification. But then the curiosity of division and reports, and other figures of music, have no affinity with the reasonable service of God, but were added in the more pompous times.

For the cap and surplice, since they be things in their nature indifferent, and yet by some held superstitious; and that the question is between science and conscience, it seemeth to fall within the compass of the apostle's rule, which is, "that the stronger do descend and yield to the weaker." Only the difference is, that it will be materially said, that the rule holdeth between private man and private man; but not between the conscience of a private man, and the order of a Church. But yet since the question at this time is of a toleration, not by connivance, which may encourage disobedience, but by law, which may give a liberty; it is good again to be advised whether it fall not within the equity of the former rule: the rather, because the silencing of ministers by this occasion is, in this scarcity of good preachers, a punishment that lighteth upon the people as well as upon the party. And for the subscription, it seemeth to me in the nature of a confession, and therefore more proper to bind in the unity

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of faith, and to be urged rather for articles of doctrine, than for rites and ceremonies, and points of outward government. For howsoever politic considerations and reasons of state may require uniformity, yet Christian and divine grounds look chiefly upon unity.

TOUCHING A PREACHING MINISTRY.

To speak of a learned ministry: it is true that the worthiness of the pastors and ministers is of all other points of religion the most summary; I do not say the greatest, but the most effectual towards the rest: but herein, to my understanding, while men go on in zeal to hasten this work, they are not aware of as great or greater inconvenience, than that which they seek to remove. For while they inveigh against a dumb ministry, they make too easy and too promiscuous an allowance of such as they account preachers; having not respect enough to their learnings in other arts, which are handmaids to divinity; not respect enough to years, except it be in case of extraordinary gift; not respect enough to the gift itself, which many times is none at all. For God forbid, that every man that can take unto himself boldness to speak an hour together in a Church, upon a text, should be admitted for a preacher, though he mean never so well. I know there is a great latitude in gifts, and a great

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variety in auditories and congregations; but yet so as there is "aliquid infimum," below which you ought not to descend. For you must rather leave the ark to shake as it shall please God, than put unworthy hands to hold it up. And when we are in God's temple, we are warned rather to "put our hands upon our mouth, than to offer the sacrifice of fools." And surely it may be justly thought, that amongst many causes of atheism, which are miserably met in our age; as schisms and controversies, prophane scoffings in holy matters, and others; it is not the least that divers do adventure to handle the word of God, which are unfit and unworthy. And herein I would have no man mistake me, as if I did extol curious and affected preaching; which is as much on the other side to be disliked, and breedeth atheism and scandal as well as the other: for who would not be offended at one that cometh into the pulpit, as if he came upon the stage to play parts or prizes? neither on the other side, as if I would discourage any who hath any tolerable gift.

But upon this point I ground three considerations: first, whether it were not requisite to renew that good exercise which was practised in this Church, some years, and afterwards put down by order indeed from the Church, in regard of some abuse thereof, inconvenient for those times; and yet against the advice and opinion of one of the greatest and gravest prelates of this land, and was commonly called prophesying; which was this: That the ministers within a precinct did meet upon

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a week-day in some principal town, where there was some ancient grave minister that was president, and an auditory admitted of gentlemen, or other persons of leisure. Then every minister successively, beginning with the youngest, did handle one and the same part of Scripture, spending severally some quarter of an hour or better, and in the whole some two hours: and so the exercise being begun and concluded with prayer, and the president giving a text for the next meeting, the assembly was dissolved. And this was, as I take it, a fortnight's exercise; which, in my opinion, was the best way to frame and train up preachers to handle the word of God as it ought to be handled, that hath been practised. For we see orators have their declamations, lawyers have their moots, logicians their sophisms; and every practice of science hath an exercise of erudition and initiation before men come to the life; only preaching, which is the worthiest, and wherein it is most danger to do amiss, wanteth an introduction, and is ventured and rushed upon at the first. But unto this exercise of the prophecy, I would wish these two additions: the one, that after this exercise, which is in some sort public, there were immediately a private meeting of the same ministers, where they might brotherly admonish the one the other, and especially the elder sort the younger, of any thing that had passed in the exercise, in matter or manner, unsound and uncomely; and in a word, might mutually use such advice, instruction, comfort, or encouragement, as occasion might minister;

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for public reprehension were to be debarred. The other addition that I mean is, that the same exercise were used in the universities for young divines, before they presumed to preach, as well as in the country for ministers. For they have in some colleges an exercise called a common-place; which can in no degree be so profitable, being but the speech of one man at one time. And if it be feared that it may be occasion to whet men's speeches for controversies, it is easily remedied, by some strict prohibition, that matters of controversy tending any way to the violating or disquieting the peace of the Church, be not handled or entered into; which prohibition, in regard there is ever to be a grave person president or moderator, cannot be frustrated. The second consideration is, whether it were not convenient there should be a more exact probation and examination of ministers: namely, that the bishops do not ordain alone, but by advice; and then that ancient holy order of the Church might be revived; by the which the bishop did ordain ministers but at four set times of the year; which were called "Quatuor tempora;" which are now called Ember-weeks: it being thought fit to accompany so high an action with general fasting and prayer, and sermons, and all holy exercises; and the names likewise of those that were to be ordained, were published some days before their ordination; to the end exceptions might be taken, if just cause were. The third consideration is, that if the case of the Church of England be, that were a computation taken of all the parochian

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churches, allowing the union of such as were too small and adjacent, and again a computation to be taken of the persons who were worthy to be pastors; and upon the said account if it fall out that there are many more churches than pastors, then of necessity recourse must be had to one of these remedies; either that pluralities must be allowed, especially if you can by permutation make the benefices more compatible; or that there be allowed preachers to have a more general charge, to supply and serve by turn parishes unfurnished: for that some churches should be provided of pastors able to teach, and others wholly destitute, seemeth to me to be against the communion of saints and Christians, and against the practice of the primitive Church.

TOUCHING THE ABUSE OF EXCOMMUNICATION.

Excommunication is the greatest judgment upon earth; being that which is ratified in heaven; and being a precursory or prelusory judgment of the great judgment of Christ in the end of the world. And therefore for this to be used irreverently, and to be made an ordinary process, to lackey up and down for fees, how can it be without derogation to God's honour, and making the power of the keys contemptible? I know very well the defence thereof, which hath no great force; that it issueth forth not for the thing itself, but for the contumacy. I do

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not deny, but this judgment is, as I said before, of the nature of God's judgments; of the which it is a model. For as the judgment of God taketh hold of the least sin of the impenitent, and taketh no hold of the greatest sin of the convert or penitent; so excommunication may in case issue upon the smallest offence, and in case not issue upon the greatest: but is this contumacy such a contumacy as excommunication is now used for? For the contumacy must be such as the party, as far as the eye and wisdom of the Church can discern, standeth in state of reprobation and damnation: as one that for that time seemeth given over to final impenitency. Upon this observation I ground two considerations: the one, that this censure be restored to the true dignity and use thereof; which is, that it proceed not but in causes of great weight; and that it be decreed not by any deputy or substitute of the bishop, but by the bishop in person; and not by him alone, but by the bishop assisted.

The other consideration is, that in lieu thereof, there be given to the ecclesiastical court some ordinary process, with such force and coercion as appertaineth; that so the dignity of so high a sentence being retained, and the necessity of mean process supplied, the Church may be indeed restored to the ancient vigour and splendour. To this purpose, joined with some other holy and good purposes, was there a bill drawn in parliament, in the three-and-twentieth year of the reign of the queen deceased; which was the gravest parliament that I have known;

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and the bill recommended by the gravest counsellor of estate in parliament; though afterwards it was staid by the queen's special commandment, the nature of those times considered.

TOUCHING NON-RESIDENTS AND PLURALITIES.

For non-residence, except it be in case of necessary absence, it seemeth an abuse drawn out of covetousness and sloth: for that men should live of the flock that they do not feed, or of the altar at which they do not serve, is a thing that can hardly receive just defence; and to exercise the office of a pastor, in matter of the word and doctrine, by deputies, is a thing not warranted, as hath been touched before. The questions upon this point do arise upon the cases of exception and excusation, which shall be thought reasonable and sufficient, and which not. For the case of chaplains, let me speak that with your Majesty's pardon, and with reverence towards the other peers and grave persons, whose chaplains by statutes are privileged: I should think, that the attendance which chaplains give to your Majesty's court, and in the houses and families of their lords, were a juster reason why they should have no benefice, than why they should be qualified to have two: for, as it standeth with Christian policy, that such attendance be in no wise neglected; because that good, which ensueth

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thereof to the Church of God, may exceed, or countervail that which may follow of their labours in any, though never so large a congregation; so it were reasonable that their maintenance should honourably and liberally proceed thence, where their labours be employed. Neither are there wanting in the Church dignities and preferments not joined with any exact cure of souls; by which, and by the hope of which, such attendants in ordinary, who ought to be, as for the most part they are, of the best gifts and sort, may be farther encouraged and rewarded. And as for extraordinary attendants, they may very well retain the grace and countenance of their places and duties at times incident thereunto, without discontinuance or non-residence in their pastoral charges. Next for the case of intending studies in the universities, it will more easily receive an answer; for studies do but serve and tend to the practice of those studies: and therefore for that which is most principal and final to be left undone, for the attending of that which is subservient and subministrant, seemeth to be against proportion of reason. Neither do I see, but that they proceed right well in all knowledge, which do couple study with their practice; and do not first study altogether, and then practise altogether; and therefore they may very well study at their benefices. Thirdly, for the case of extraordinary service of the Church; as if some pastor be sent to a general council, or here to a convocation; and likewise for the case of necessity, as in the particular of infirmity of body, and the like, no man will

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contradict, but that there may be some substitution for such a time. But the general case of necessity is the case of pluralities; the want of pastors and insufficiency of livings considered, "posito," that a man doth faithfully and incessantly divide his labours between two cures; which kind of necessity I come now to speak of in the handling of pluralities.

For pluralities, in case the number of able ministers were sufficient, and the value of benefices were sufficient, then pluralities were in no sort tolerable. But we must take heed, we desire not contraries. For to desire that every parish should be furnished with a sufficient preacher, and to desire that pluralities be forthwith taken away, is to desire things contrary; considering, "de facto," there are not sufficient preachers for every parish: whereunto add likewise, that there is not sufficient living and maintenance in many parishes to maintain a preacher; and it maketh the impossibility yet much the greater. The remedies "in rerum natura" are but three; union, permutation, and supply. Union of such benefices as have the living too small, and the parish not too great, and are adjacent. Permutation, to make benefices more compatible, though men be over-ruled to some loss in changing a better for a nearer. Supply, by stipendiary preachers, to be rewarded with some liberal stipends, to supply, as they may, such places which are unfurnished of sufficient pastors: as queen Elizabeth, amongst other her gracious acts, did erect certain of them in Lan-

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cashire; towards which pensions, I see no reason but reading ministers, if they have rich benefices, should be charged.

TOUCHING THE PROVISION FOR SUFFICIENT MAINTENANCE IN THE CHURCH.

TOUCHING Church-maintenance, it is well to be weighed what is "jure divino," and what "jure positivo." It is a constitution of the divine law, from which human laws cannot derogate, that those which feed the flock should live of the flock; that those that serve at the altar should live at the altar; that those which dispense spiritual things should reap temporal things; of which it is also an appendix, that the proportion of this maintenance be not small or necessitous, but plentiful and liberal. So then, that all the places and offices of the Church be provided of such a dotation, that they may be maintained, according to their several degrees, is a constitution permanent and perpetual: but for particularity of the endowment, whether it should consist of tithes, or lands, or pensions, or mixt, might make a question of convenience, but no question of precise necessity. Again, that the case of the Church "de facto" is such, that there is want in the Church of patrimony, is confessed. For the principal places, namely, the bishops livings, are in some particulars not sufficient; and therefore

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enforced to be supplied by toleration of Commendams, things of themselves unfit, and ever held of no good report. And as for the benefices and pastors places, it is manifest that very many of them are very weak and penurious. On the other side, that there was a time when the Church was rather burdened with superfluity, than with lack, that is likewise apparent; but it is long since; so as the fault was in others, the want redoundeth unto us. Again, that it were to be wished that impropriations were returned to the Church as the most proper and natural endowments thereof, is a thing likewise wherein men's judgments will not much vary. Nevertheless, that it is an impossibility to proceed now, either to their resumption or redemption, is as plain on the other side. For men are stated in them by the highest assurance of the kingdom, which is, act of parliament; and the value of them amounteth much above ten subsidies; and the restitution must of necessity pass their hands, in whose hands they are now in possession or interest.

But of these things which are manifestly true, to infer and ground some conclusions. First, in mine own opinion and sense, I must confess, let me speak it with reverence, that all the parliaments since 27 and 31 of Henry VIII. who gave away impropriations from the Church, seem to me to stand in a sort obnoxious, and obliged to God in conscience to do somewhat for the Church, to reduce the patrimony thereof to a competency. For since they have debarred Christ's wife of a great part of her dowry, it

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were reason they made her a competent jointure. Next to say, that impropriations should be only charegd, that carrieth neither possibility nor reason. Not possibility, for the reasons touched before: not reason, because if it be conceived, that if any other person be charged, it should be a re-charge, or double charge, inasmuch as he payeth tithes already, that is a thing mistaken. For it must be remembered, that as the realm gave tithes to the Church, so the realm since again hath given tithes away from the Church unto the king, as they may give their eighth sheaf or ninth sheaf. And therefore the first gift being evacuated, it cannot go in defeasance or discharge of that perpetual bond, wherewith men are bound to maintain God's ministers. And so we see in example, that divers godly and well-disposed persons, not impropriators, are content to increase their preachers livings; which, though in law it be but a benevolence, yet before God it is a conscience. Farther, that impropriation should not be somewhat more deeply charged than other revenues of like value, methinks, cannot well be denied, both in regard of the ancient claim of the Church, and the intention of the first giver: and again, because they have passed in valuation between man and man somewhat at the less rate, in regard of the said pretence or claim of the Church in conscience before God. But of this point, touching Church-maintenance, I do not think fit to enter into farther particularity, but reserve the same to a fitter time.

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THUS have I in all humbleness and sincerity of heart, to the best of my understanding, given your Majesty tribute of my cares and cogitations in this holy business, so highly tending to God's glory, your Majesty's honour, and the peace and welfare of your states: insomuch as I am persuaded that the papists themselves should not need so much the severity of penal laws, if the sword of the Spirit were better edged, by strengthening the authority, and suppressing the abuses in the Church.

To conclude, renewing my most humble submission of all that I have said to your Majesty's most high wisdom, and again, most humbly craving pardon for any errors committed in this writing; which the same weakness of judgment that suffered me to commit them, would not suffer me to discover them, I end with my devout and fervent prayer to God, that as he hath made your Majesty the corner-stone, in joining your two kingdoms, so you may be also as a corner-stone to unite and knit together these differences in the Church of God; to whose heavenly grace and never-erring direction, I commend your Majesty's sacred person, and all your doings.

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THE TRANSLATION OF CERTAIN PSALMS INTO ENGLISH VERSE.

BY THE RIGHT HONOURABLE FRANCIS, LORD VERULAM, VISCOUNT ST. ALBAN.

PRINTED AT LONDON, 1625, IN QUARTO.

TO HIS VERY GOOD FRIEND,

MR. GEORGE HERBERT.

The pains that it pleased you to take about some of my writings, I cannot forget; which did put me in mind to dedicate to you this poor exercise of my sickness. Besides, it being my manner for dedications, to choose those that I hold most fit for the argument, I thought, that in respect of divinity and posy met, whereof the one is the matter, the other the stile of this little writing, I could not make better choice: so, with signification of my love and acknowledgment, I ever rest*

Your affectionate Friend,

FR. ST. ALBAN.

* Of translating part of the Advancement of Learning into Latin.

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THE TRANSLATION OF THE IST PSALM.

WHO never gave to wicked reed
A yielding and attentive ear;
Who never sinners paths did tread,
Nor sat him down in scorner's chair;
But maketh it his whole delight
On law of God to meditate;
And therein spendeth day and night:
That man is in a happy state.

He shall be like the fruitful tree,
Planted along a running spring,
Which, in due season, constantly
A goodly yield of fruit doth bring:
Whose leaves continue always green,
And are no prey to winter's pow'r:
So shall that man not once be seen
Surprised with an evil hour.

With wicked men it is not so,
Their lot is of another kind:
All as the chaff, which to and fro
Is toss'd at mercy of the wind.
And when he shall in judgment plead,
A casting sentence bide he must:
So shall he not lift up his head
In the assembly of the just.

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For why? the Lord hath special eye
To be the godly's stay at call:
And hath given over, righteously,
The wicked man to take his fall.

THE TRANSLATION OF THE XIITH PSALM.

HELP, Lord, for godly men have took their flight,
And left the earth to be the wicked's den:
Not one that standeth fast to truth and right,
But fears, or seeks to please, the eyes of men.
When one with other falls in talk apart,
Their meaning go'th not with their words, in proof,
But fair they flatter, with a cloven heart,
By pleasing words, to work their own behoof.

But God cut off the lips, that are all set
To trap the harmless soul, that peace hath vow'd;
And pierce the tongues, that seek to counterfeit
The confidence of truth, by lying loud:
Yet so they think to reign, and work their will
By subtile speech, which enters ev'ry where;
And say: Our tongues are ours, to help us still;
What need we any higher pow'r to fear?

Now for the bitter sighing of the poor,
The Lord hath said, I will no more forbear
The wicked's kingdom to invade and scour,
And set at large the men restrain'd in fear.

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And sure the word of God is pu re and fine,
  And in the trial never loseth weight;
Like noble gold, which, since it left the mine,
  Hath seven times passed through the fiery strait

And now thou wilt not first thy word forsake,
  Nor yet the righteous man that leans thereto;
But wilt his safe protection undertake,
  In spite of all their force and wiles can do.
And time it is, O Lord, thou didst draw nigh;
  The wicked daily do enlarge their bands;
And that which makes them follow ill a vie,
  Rule is betaken to unworthy hands.

THE TRANSLATION OF THE XCTH PSALM.

O LORD, thou art our home, to whom we fly,
  And so hast always been from age to age:
Before the hills did intercept the eye,
  Or that the frame was up of earthly stage,
    One God thou wert, and art, and still shalt be;
    The line of time, it doth not measure thee.

Both death and life obey thy holy lore,
  And visit in their turns, as they are sent;
A thousand years with thee they are no more
  Than yesterday, which, ere it is, is spent:
    Or as a watch by night, that course doth keep,
    And goes, and comes, unwares to them that sleep.

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Thou carry'st man away with a tide:
Then down swim all his thoughts that mounted high:
Much like a mocking dream, that will not bide,
But flies before the sight of waking eye;
Or as the grass, that cannot term obtain,
To see the summer come about again.

At morning, fair it musters on the ground;
At ev'n it is cut down, and laid along:
And though it spared were, and favour found,
The weather would perform the mower's wrong:
Thus hast thou hang'd our life on brittle pins,
To let us know it will not bear our sins.

Thou bury'st not within oblivion's tomb
Our trespasses, but ent'rest them aright;
Ev'n those that are conceiv'd in darkness' womb,
To thee appear as done at broad day-light.
As a tale told, which sometime men attend,
And sometimes not, our life steals to an end.

The life of man is threescore years and ten,
Or, if that he be strong, perhaps fourscore;
Yet all things are but labour to him then,
New sorrows still come on, pleasures no more.
Why should there be such turmoil and such strife,
To spin in length this feeble line of life?

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But who considers duly of thine ire?
Or doth the thoughts thereof wisely embrace?
For thou, O God, art a consuming fire:
Frail man, how can he stand before thy face?
If thy displeasure thou dost not refrain,
A moment brings all back to dust again.

Teach us, O Lord, to number well our days,
Thereby our hearts to wisdom to apply;
For that which guides man best in all his ways,
Is meditation of mortality.
This bubble light, this vapour of our breath,
Teach us to consecrate to hour of death.

Return unto us, Lord, and balance now,
With days of joy, our days of misery;
Help us right soon, our knees to thee we bow,
Depending wholly on thy clemency;
Then shall thy servants both with heart and voice,
All the days of their life in thee rejoice.

Begin thy work, O Lord, in this our age,
Shew it unto thy servants that now live;
But to our children raise it many a stage,
That all the world to thee may glory give.
Our handy-work likewise, as fruitful tree,
Let it, O Lord, blessed, not blasted be.

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THE TRANSLATION OF THE CIVTH PSALM.

FATHER and King of pow'rs, both high and low,
Whose sounding fame all creatures serve to blow;
My soul shall with the rest strike up thy praise,
And carol of thy works and wondrous ways.
But who can blaze thy beauties, Lord, aright?
They turn the brittle beams of mortal sight.
Upon thy head thou wear'st a glorious crown,
All set with virtues polish'd with renown:
Thence round about a silver veil doth fall
Of crystal light, mother of colours all.
The compass heav'n, smooth without grain, or fold,
All set with spangs of glitt'ring stars untold,
And strip'd with golden beams of power unpent,
Is raised up for a removing tent.
Vaulted and arched are his chamber beams
Upon the seas, the waters, and the streams:
The clouds as chariots swift do scour the sky;
The stormy winds upon their wings do fly.
His angels spirits are, that wait his will,
As flames of fire his anger they fulfil.
In the beginning, with a mighty hand,
He made the earth by counterpoise to stand,
Never to move, but to be fixed still;
Yet hath no pillars but his sacred will.

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This earth, as with a veil, once cover'd was,
The waters over-flowed all the mass:
But upon his rebuke away they fled,
And then the hills began to shew their head;
The vales their hollow bosoms open'd plain,
The streams ran trembling down the vales again:
And that the earth no more might drowned be,
He set the sea his bounds of liberty;
And though his waves resound, and beat the shore,
Yet it is bridled by his holy lore.
Then did the rivers seek their proper places,
And found their heads, their issues, and their races;
The springs do feed the rivers all the way,
And so the tribute to the sea repay:
Running along through many a pleasant field,
Much fruitfulness unto the earth they yield:
That know the beasts and cattle feeding by,
Which for to slake their thirst do thither hie.
Nay desert grounds the streams do not forsake,
But through the unknown ways their journey take:
The asses wild, that hide in wilderness,
Do thither come, their thirst for to refresh.
The shady trees along their banks do spring,
In which the birds do build, and sit, and sing;
Stroking the gentle air with pleasant notes,
Plaining, or chirping through their warbling throats.
The higher grounds, where waters cannot rise,
By rain and dews are water'd from the skies;
Causing the earth put forth the grass for beasts,
And garden herbs, serv'd at the greatest feasts;

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And bread, that is all viands firmament,
And gives a firm and solid nourishment;
And wine, man's spirits for to recreate;
And oil, his face for to exhilarate.
The sappy cedars, tall like stately tow'rs,
High-flying birds do harbour in their bow'rs:
The holy storks, that are the travellers,
Choose for to dwell and build within the firs;
The climbing goats hang on steep mountains side;
The digging conies in the rocks do bide.
The moon, so constant in inconstancy,
Doth rule the monthly seasons orderly;
The sun, eye of the world, doth know his race,
And when to shew, and when to hide his face.
Thou makest darkness, that it may be night,
When as the savage beasts, that fly the light,
As conscious of man's hatred, leave their den,
And range abroad, secur'd from sight of men.
Then do the forests ring of lions roaring,
That ask their meat of God, their strength restoring;
But when the day appears, they back do fly,
And in their dens again do lurking lie.
Then man goes forth to labour in the field,
Whereby his grounds more rich increase may yield.
O Lord, thy providence sufficeth all;
Thy goodness, not restrained, but general
Over thy creatures: the whole earth doth flow
With thy great largess pour'd forth here below.
Nor is it earth alone exalts thy name,
But seas and streams likewise do spread the same.

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The rolling seas unto the lot doth fall
Of beasts innumerable, great and small;
There do the stately ships plough up the floods,
The greater navies look like walking woods;
The fishes there far voyages do make,
To divers shores their journey they do take.
There hast thou set the great Leviathan,
That makes the seas to seeth like boiling pan.
All these do ask of thee their meat to live,
Which in due season thou to them dost give.
Ope thou thy hand, and then they have good fare;
Shut thou thy hand, and then they troubled are.
All life and spirit from thy breath proceed,
Thy word doth all things generate and feed.
If thou withdraw'st it, then they cease to be,
And straight return to dust and vanity;
But when thy breath thou dost send forth again,
Then all things do renew and spring amain;
So that the earth, but lately desolate,
Doth now return unto the former state.
The glorious majesty of God above
Shall ever reign in mercy and in love:
God shall rejoice all his fair works to see,
For as they come from him all perfect be.
The earth shall quake, if aught his wrath provoke;
Let him but touch the mountains they shall smoke.
As long as life doth last I hymns will sing,
With cheerful voice, to the eternal King;
As long as I have being, I will praise
The works of God, and all his wondrous ways

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I know that he my words will not despise,
Thanksgiving is to him a sacrifice.
But as for sinners, they shall be destroy'd
From off the earth, their places shall be void.
Let all his works praise him with one accord;
O praise the Lord, my soul; praise ye the Lord!

THE TRANSLATION OF THE CXXVIth PSALM.

When God return'd us graciously
Unto our native land,
We seem'd as in a dream to be,
And in a maze to stand.

The heathen likewise they could say:
The God, that these men serve,
Hath done great things for them this day,
Their nation to preserve.

'Tis true; God hath pour'd out his grace
On us abundantly,
For which we yield him psalms and praise,
And thanks with jubile.

O Lord, turn our captivity,
As winds, that blow at south,
Do pour the tides with violence
Back to the rivers mouth.

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Who sows in tears shall reap in joy,
The Lord doth so ordain;
So that his seed be pure and good,
His harvest shall be gain.

THE TRANSLATION OF THE CXXXVIITH PSALM.

WHEN as we sat all sad and desolate,
By Babylon upon the river's side,
Eas'd from the tasks which in our captive state
We were enforced daily to abide,
Our harps we had brought with us to the field,
Some solace to our heavy souls to yield.

But soon we found we fail'd of our account,
For when our minds some freedom did obtain,
Straightways the memory of Sion Mount
Did cause afresh our wounds to bleed again;
So that with present griefs, and future fears,
Our eyes burst forth into a stream of tears.

As for our harps, since sorrow struck them dumb,
We hang'd them on the willow-trees were near;
Yet did our cruel masters to us come,
Asking of us some Hebrew songs to hear:
Taunting us rather in our misery,
Than much delighting in our melody.

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Alas, said we, who can once force a frame
His grieved and oppressed heart to sing.
The praises of Jehovah's glorious name,
In banishment, under a foreign king?
In Sion is his seat and dwelling place,
Thence doth he shew the brightness of his face.

Jerusalem, where God his throne hath set,
Shall any hour absent thee from my mind?
Then let my right-hand quite her skill forget,
Then let my voice and words no passage find;
Nay, if I do not thee prefer in all,
That in the compass of my thoughts can fall.

Remember thou, O Lord, the cruel cry
Of Edom's children, which did ring and sound,
Inciting the Chaldean's cruelty,
"Down with it, down with it, even unto the ground."
In that good day repay it unto them,
When thou shalt visit thy Jerusalem.

And thou, O Babylon, shalt have thy turn
By just revenge, and happy shall he be,
That thy proud walls and tow'rs shall waste and burn,
And as thou didst by us, so do by thee.
Yea, happy he, that takes thy children's bones,
And dasheth them against the pavement stones.

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THE TRANSLATION OF THE CXLIXTH PSALM.

O SING a new song to our God above,
Avoid prophane ones, 'tis for holy quire:
Let Israel sing songs of holy love
To him that made them, with their hearts on fire:
Let Sion's sons lift up their voice and sing
Carols and anthems to their heav'nly King.

Let not your voice alone his praise forth tell,
But move withal, and praise him in the dance;
Cymbals and harps let them be tuned well,
'Tis he that doth the poor's estate advance:
Do this not only on the solemn days,
But on your secret beds your spirits raise.

O let the saints bear in their mouth his praise,
And a two-edged sword drawn in their hand,
Therewith for to revenge the former days
Upon all nations that their zeal withstand;
To bind their kings in chains of iron strong,
And manacle their nobles for their wrong.

Expect the time, for 'tis decreed in heav'n,
Such honour shall unto his saints be giv'n.

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AN ADVERTISEMENT TOUCHING AN HOLY WAR.

TO THE RIGHT REVEREND FATHER IN GOD, LANCELOT ANDREWS, LORD BISHOP OF WINCHESTER, AND COUNSELLOR OF ESTATE TO HIS MAJESTY.

My Lord,

Amongst consolations, it is not the least to represent to a man's self like examples of calamity in others. For examples give a quicker impression than arguments; and besides, they certify us, that which the Scripture also tendereth for satisfaction; "that no new thing is happened unto us." This they do the better, by how much the examples are liker in circumstances to our own case; and more especially if they fall upon persons that are greater and worthier than ourselves. For as it savoureth of vanity, to match ourselves highly in our own conceit; so on the other side it is a good sound conclusion, that if our betters have sustained the like events, we have the less cause to be grieved.

In this kind of consolation I have not been wanting to myself, though as a Christian, I have tasted, through God's great goodness, of higher remedies. Having therefore, through the variety of my reading, set before me many examples both of ancient

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and later times, my thoughts, I confess, have chiefly stayed upon three particulars, as the most eminent and the most resembling. All three persons that had held chief place of authority in their countries; all three ruined, not by war, or by any other disaster, but by justice and sentence, as delinquents and criminals; all three famous writers, insomuch as the remembrance of their calamity is now as to posterity but as a little picture of night-work, remaining amongst the fair and excellent tables of their acts and works: and all three, if that were any thing to the matter, fit examples to quench any man's ambition of rising again; for that they were every one of them restored with great glory, but to their farther ruin and destruction, ending in a violent death. The men were, Demosthenes, Cicero, and Seneca; persons that I durst not claim affinity with, except the similitude of our fortunes had contracted it. When I had cast mine eyes upon these examples, I was carried on farther to observe, how they did bear their fortunes, and principally, how they did employ their times, being banished, and disabled for public business: to the end that I might learn by them; and that they might be as well my counsellors as my comforters. Whereupon I happened to note, how diversly their fortunes wrought upon them; especially in that point at which I did most aim, which was the employing of their times and pens. In Cicero, I saw that during his banishment, which was almost two years, he was so softened and dejected, as he wrote nothing but a few womanish epistles.

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And yet, in mine opinion, he had least reason of the three to be discouraged: for that although it was judged, and judged by the highest kind of judgment, in form of a statute or law, that he should be banished, and his whole estate confiscated and seized, and his houses pulled down, and that it should be highly penal for any man to propound a repeal; yet his case even then had no great blot of ignominy; for it was thought but a tempest of popularity which overthrew him. Demosthenes contrariwise, though his case was foul, being condemned for bribery, and not simple bribery, but bribery in the nature of treason and disloyalty, yet nevertheless took so little knowledge of his fortune, as during his banishment he did much busy himself, and intermeddle with matters of state; and took upon him to counsel the state, as if he had been still at the helm, by letters; as appears by some epistles of his which are extant. Seneca indeed, who was condemned for many corruptions and crimes, and banished into a solitary island, kept a mean; and though his pen did not freeze, yet he abstained from intruding into matters of business; but spent his time in writing books of excellent argument and use for all ages; though he might have made better choice, sometimes, of his dedications.

These examples confirmed me much in a resolution, whereunto I was otherwise inclined, to spend my time wholly in writing; and to put forth that poor talent, or half talent, or what it is, that God hath given me, not as heretofore to particular ex-

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changes, but to banks, or mounts of perpetuity, which will not break. Therefore having not long since set forth a part of my Instauration; which is the work, that in mine own judgment, "si nunquam fallit imago," I do most esteem; I think to proceed in some new parts thereof. And although I have received from many parts beyond the seas, testimonies touching that work, such as beyond which I could not expect at the first in so abstruse an argument; yet nevertheless I have just cause to doubt, that it flies too high over men's heads: I have a purpose therefore, though I break, the order of time, to draw it down to the sense, by some patterns of a Natural Story and Inquisition. And again, for that my book of Advancement of Learning may be some preparative, or key, for the better opening of the Instauration; because it exhibits a mixture of new conceits and old; whereas the Instauration gives the new unmixed, otherwise than with some little aspersion of the old for taste's sake; I have thought good to procure a translation of that book into the general language, not without great and ample additions, and enrichment thereof, especially in the second book, which handleth the partition of sciences; in such sort, as I hold it may serve in lieu of the first part of the Instauration, and acquit my promise in that part. Again, because I cannot altogether desert the civil person that I have borne; which if I should forget, enough would remember; I have also entered into a work touching Laws, propounding a character of justice in a middle term,

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between the speculative and reverend discourses of philosophers, and the writings of lawyers, which are tied and obnoxious to their particular laws. And although it be true, that I had a purpose to make a particular digest, or recompilement of the laws of mine own nation; yet because it is a work of assistance, and that which I cannot master by mine own forces and pen, I have laid it aside. Now having in the work of my Instauration had in contemplation the general good of men in their very being, and the dowries of nature; and in my work of laws, the general good of men likewise in society, and the dowries of government; I thought in duty I owed somewhat unto my own country, which I ever loved; insomuch as although my place hath been far above my desert, yet my thoughts and cares concerning the good thereof were beyond, and over, and above my place: so now being, as I am, no more able to do my country service, it remained unto me to do it honour: which I have endeavoured to do in my work of The reign of King Henry the seventh. As for my Essays, and some other particulars of that nature, I count them but as the recreations of my other studies, and in that sort purpose to continue them; though I am not ignorant that those kind of writings would, with less pains and embracement, perhaps, yield more lustre and reputation to my name than those other which I have in hand. But I account the use that a man should seek of the publishing of his own writings before his death, to be but

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an untimely anticipation of that which is proper to follow a man, and not to go along with him.

But revolving with myself my writings, as well those which I have published, as those which I had in hand, methought they went all into the city, and none into the temple; where, because I have found so great consolation, I desire likewise to make some poor oblation. Therefore I have chosen an argument, mixt of religious and civil considerations; and likewise mixt between contemplative and active. For who can tell whether there may not be an "exoriere aliquis?" Great matters, especially if they be religious, have, many times, small beginnings: and the platform may draw on the building. This work because I was ever an enemy to flattering dedications, I have dedicated to your lordship, in respect of our ancient and private acquaintance; and because amongst the men of our times I hold you in special reverence.

Your lordship's loving friend,

FR. ST. ALBAN.

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AN ADVERTISEMENT TOUCHING AN HOLY WAR.
WRITTEN IN THE YEAR MDCXXII.
THE PERSONS THAT SPEAK:
EUSEBIUS, GAMALIEL, ZEBEDÆUS, MARTIUS, EUPOLIS, POLLIO.

THERE met at Paris, in the house of Eupolis, *Eusebius, Zebedæus, Gamaliel, Martius, all persons of eminent quality, but of several dispositions. Eupolis himself was also present; and while they were set in conference, Pollio came in to them from court; and as soon as he saw them, after his witty and pleasant manner, he said,

POLLIO. Here be four of you, I think, were able to make a good world; for you are as differing as the four elements, and yet you are friends. As for Eupolis, because he is temperate, and without passion, he may be the fifth essence.

EUPOLIS. If we five, Pollio, make the great world, you alone make the little; because you profess, and practise both, to refer all things to yourself. POLLIO. And what do they that practise it, and profess it not? EUPOLIS. They are the less hardy, and the more dangerous. But come and sit down

* Characters of the persons. Eusebius beareth the character of a moderate divine: Gamaliel of a protestant zealot: Zebedæus of a Roman catholic zealot: Martius of a military man: Eupolis of a politic: Pollio of a courtier.

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with us, for we were speaking of the affairs of Christendom at this day; wherein we would be glad also to have your opinion. POLLIO. My lords, I have journeyed this morning, and it is now the heat of the day; therefore your lordships discourses had need content my ears very well, to make them intreat mine eyes to keep open. But yet if you will give me leave to awake you, when I think your discourses do but sleep, I will keep watch the best I can. EUPOLIS. You cannot do us a greater favour. Only I fear you will think all our discourses to be but the better sort of dreams; for good wishes, without power to effect, are not much more. But, Sir, when you came in, Martius had both raised our attentions, and affected us with some speech he had begun; and it falleth out well, to shake off your drowsiness; for it seemed to be the trumpet of a war. And therefore, Martius, if it please you, to begin again; for the speech was such, as deserveth to be heard twice; and I assure you, your auditory is not a little amended by the presence of Pollio. MARTIUS. When you came in, Pollio, I was saying freely to these lords, that I had observed, how by the space now of half a century of years, there had been, if I may speak it, a kind of meanness in the designs and enterprises of Christendom. Wars with subjects, like an angry suit for a man's own, that might be better ended by accord. Some petty acquests of a town, or a spot of territory; like a farmer's purchase of a close or nook of ground, that lay fit for him. And although the wars had been

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for a Naples, or a Milan, or a Portugal, or a Bohemia, yet these wars were but as the wars of heathens, of Athens, or Sparta, or Rome, for secular interest, or ambition, not worthy of the warfare of Christians. The Church, indeed, maketh her missions into the extreme parts of the nations and isles, and it is well: but this is "Ecce unus gladius hic." The Christian princes and potentates are they that are wanting to the propagation of the faith by their arms. Yet our Lord, that said on earth, to the disciples, "Ite et prædicate," said from heaven to Constantine, "In hoc signo vince." What Christian soldier is there that will not be touched with a religious emulation to see an order of Jesus, or of St. Francis, or of St. Augustine, do such service, for enlarging the Christian borders; and an order of St. Jago, or St. Michael or St. George, only to robe, and feast, and perform rites and observances? Surely the merchants themselves shall rise in judgment against the princes and nobles of Europe; for they have made a great path in the seas, unto the ends of the world; and set forth ships, and forces, of Spanish, English, and Dutch, enough to make China tremble; and all this, for pearl, or stone, or spices: but for the pearl of the kingdom of heaven, or the stones of the heavenly Jerusalem, or the spices of the spouse's garden, not a mast hath been set up: nay, they can make shift to shed Christian blood so far off amongst themselves, and not a drop for the cause of Christ. But let me recall myself; I must acknowledge, that within the space

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of fifty years, whereof I spake, there have been three noble and memorable actions upon the infidels, wherein the Christian hath been the invader: for where it is upon the defensive, I reckon it a war of nature, and not of piety. The first was, that famous and fortunate war by sea, that ended in the victory of Lepanto; which hath put a hook into the nostrils of the Ottomans to this day; which was the work chiefly of that excellent pope Pius Quintus, whom I wonder his successors have not declared a saint. The second was, the noble, though unfortunate, expedition of Sebastian king of Portugal upon Africa, which was atchieved by him alone; so alone, as left somewhat for others to excuse. The last was, the the brave incursions of Sigismund the Transylvanian prince, the thread of whose prosperity was cut off by the Christians themselves, contrary to the worthy and paternal monitories of pope Clement the eighth. More than these, I do not remember. POLLIO. No! What say you to the extirpation of the Moors of Valentia? At which sudden question, Martius was a little at a stop; and Gamaliel prevented him, and said: GAMALIEL. I think Martius did well in omitting that action, for I, for my part, never approved it; and it seems, God was not well pleased with that deed; for you see the king, in whose time it passed, whom you catholics count a saint-like and immaculate prince, was taken away in the flower of his age: and the author, and great counsellor of that rigour, whose fortunes seemed to be built upon the rock, is ruined: and it is thought by some, that

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the reckonings of that business are not yet cleared with Spain; for that numbers of those supposed Moors, being tried now by their exile, continue constant in the faith, and true Christians in all points, save in the thirst of revenge. ZEBEDÆUS. Make not hasty judgment, Gamaliel, of that great action, which was as Christ's fan in those countries, except you could shew some such covenant from the crown of Spain, as Joshua made with the Gibeonites; that that cursed seed should continue in the land. And you see it was done by edict, not tumultuously; the sword was not put into the people's hand. EUPOLIS. I think Martius did omit it, not as making any judgment of it either way, but because it sorted not aptly with action of war, being upon subjects, and without resistance. But let us, if you think good, give Martius leave to proceed in his discourse; for methought he spake like a divine in armour. MARTIUS. It is true, Eupolis, that the principal object which I have before mine eyes, in that whereof I speak, is piety and religion. But, nevertheless, if I should speak only as a natural man, I should persuade the same thing. For there is no such enterprise, at this day, for secular greatness, and terrene honour, as a war upon infidels. Neither do I in this propound a novelty, or imagination, but that which is proved by late examples of the same kind, though perhaps of less difficulty. The Castilians, the age before that wherein we live, opened the new world; and subdued and planted Mexico, Peru, Chili, and other parts of the West

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Indies. We see what floods of treasure have flowed into Europe by that action; so that the cense or rates of Christendom are raised since ten times, yea twenty time told. Of this treasure, it is true, the gold was accumulate, and store treasure, for the most part: but the silver is still growing. Besides, infinite is the access of territory and empire, by the same enterprise. For there was never an hand drawn, that did double the rest of the habitable world, before this; for so a man may truly term it, if he shall put to account, as well that that is, as that which may be hereafter, by the farther occupation and colonizing of those countries. And yet it cannot be affirmed, if one speak ingenuously, that it was the propagation of the Christian faith that was the adamant of that discovery, entry, and plantation; but gold and silver, and temporal profit and glory: so that what was first in God's providence, was but second in man's appetite and intention. The like may be said of the famous navigations and conquests of Emanuel, king of Portugal, whose arms began to circle Afric and Asia; and to acquire, not only the trade of spices, and stones, and musk, and drugs, but footing, and places, in those extreme parts of the east. For neither in this was religion the principal, but amplification and enlargement of riches and dominion. And the effect of these two enterprises is now such, that both the East and the West Indies being met in the crown of Spain, it is come to pass, that, as one saith in a brave kind of expression, the sun never sets in the Spanish domi-

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nions, but ever shines upon one part or other of them: which, to say truly, is a beam of glory, though I cannot say it is so solid a body of glory, wherein the crown of Spain surpasseth all the former monarchies. So as, to conclude, we may see, that in these actions, upon gentiles or infidels, only or chiefly, both the spiritual and temporal honour and good have been in one pursuit and purchase conjoined. POLLIO. Methinks, with your favour, you should remember, Martius, that wild and savage people are like beasts and birds, which are "feræ naturæ," the property of which passeth with the possession, and goeth to the occupant; but of civil people, it is not so. MARTIUS. I know no such difference amongst reasonable souls; but that whatsoever is in order to the greatest and most general good of people, may justify the actions be the people more or less civil. But, Eupolis, I shall not easily grant, that the people of Peru or Mexico were such brute savages as you intend; or that there should be any such difference between them, and many of the infidels which are now in other parts. In Peru, though they were unparalelled people, according to the clime, and had some customs very barbarous, yet the government of the Incas had many parts of humanity and civility. They had reduced the nations from the adoration of a multitude of idols and fancies, to the adoration of the sun. And, as I remember, the book of Wisdom noteth degrees of idolatry; making that of worshipping petty and vile idols more gross

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than simply the worshipping of the creature. And some of the prophets, as I take it, do the like, in the metaphor of more ugly and bestial fornication. The Peruvians also, under the Incas, had magnificent temples of their superstition; they had strict and regular justice; they bare great faith and obedience to their kings; they proceeded in a kind of martial justice with their enemies, offering them their law, as better for their own good, before they drew their sword. And much like was the state of Mexico, being an elective monarchy. As for those people of the east, Goa, Calacute, Malacca, they were a fine and dainty people; frugal and yet elegant, though not military. So that, if things be rightly weighed, the empire of the Turks may be truly affirmed to be more barbarous than any of these. A cruel tyranny, bathed in the blood of their emperors upon every succession; a heap of vassals and slaves; no nobles; no gentlemen; no freemen; no inheritance of land; no stirp or ancient families; a people that is without natural affection; and, as the Scripture saith, that "regardeth not the desires of women:" and without piety, or care towards their children: a nation without morality, without letters, arts, or sciences; that can scarce measure an acre of land, or an hour of the day: base and sluttish in buildings, diets and the like; and in a word, a very reproach of human society: and yet this nation hath made the garden of the world a wilderness; for that, as it is truly said concerning the Turks, where Otto-

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man's horse sets his foot, people will come up very thin.

POLLIO. Yet in the midst of your invective, Martius, do the Turks this right, as to remember that they are no idolaters: for if, as you say, there be a difference between worshipping a base idol, and the sun, there is a much greater difference between worshipping a creature, and the Creator. For the Turks do acknowledge God the Father, creator of heaven and earth, being the first person in the Trinity, though they deny the rest. At which speech, when Martius made some pause, Zebedæus replied with a countenance of great reprehension and severity. ZEBEDÆUS. We must take heed, Pollio, that we fall not at unawares into the heresy of Manuel Comnenus emperor of Græcia, who affirmed, that Mahomet's God was the true God: which opinion was not only rejected and condemned by the synod, but imputed to the emperor as extreme madness; being reproached to him also by the bishop of Thessalonica, in those bitter and strange words, as are not to be named. MARTIUS. I confess that it is my opinion, that a war upon the Turk is more worthy than upon any other gentiles, infidels, or savages, that either have been, or now are, both in point of religion, and in point of honour; though facility, and hope of success, might, perhaps, invite some other choice. But before I proceed, both myself would be glad to take some breath; and I shall frankly desire, that

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some of your lordships would take your turn to speak, that can do it better. But chiefly, for that I see here some that are excellent interpreters of the divine law, though in several ways; and that I have reason to distrust mine own judgment, both as weak in itself, and as that which may be overborn by my zeal and affection to this cause. I think it were an error to speak farther, till I may see some sound foundation laid of the lawfulness of the action, by them that are better versed in that argument. EUPOLIS. I am glad, Martius, to see in a person of your profession so great moderation, in that you are not transported in an action that warms the blood, and is appearing holy, to blanch or take for admitted the point of lawfulness. And because, methinks, this conference prospers, if your lordships will give me leave, I will make some motion touching the distribution of it into parts. Unto which when they all assented, Eupolis said: EUPOLIS. I think it would not sort amiss, if Zebedæus would be pleased to handle the question, Whether a war for the propagation of the Christian faith, without other cause of hostility, be lawful or no, and in what cases? I confess also I would be glad to go a little farther, and to hear it spoken to concerning the lawfulness, not only permissively, but whether it be not obligatory to Christian princes and states to design it; which part, if it please Gamaliel to undertake, the point of the lawfulness taken simply will be complete. Yet there resteth the comparative: that is, it being granted,

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that it is either lawful or binding, yet whether other things be not to be preferred before it; as extirpation of heretics, reconcilements of schisms, pursuit of lawful temporal rights and quarrels, and the like; and how far this enterprise ought either to wait upon these other matters, or to be mingled with them, or to pass by them, and give law to them, as inferior unto itself? And because this is a great part, and Eusebius hath yet said nothing, we will by way of mulct or pain, if your lordships think good, lay it upon him. All this while, I doubt much that Pollio, who hath a sharp wit of discovery towards what is solid and real, and what is specious and airy, will esteem all this but impossibilities, and eagles in the clouds: and therefore we shall all intreat him to crush this argument with his best forces: that by the light we shall take from him, we may either cast it away if it be found but a bladder, or discharge it of so much as is vain and not sperable. And because I confess I myself am not of that opinion, although it be an hard encounter to deal with Pollio, yet I shall do my best to prove the enterprise possible; and to shew how all impediments may be either removed or overcome. And then it will be fit for Martius, if we do not desert it before, to resume his farther discourse, as well for the persuasive, as for the consult, touching the means, preparations, and all that may conduce unto the enterprise. But this is but my wish, your lordships will put it into better order. They all not only allowed the distribution, but accepted the parts: but because the day was

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spent, they agreed to defer it till the next morning. Only Pollio said;

Pollio. You take me right, Eupolis, for I am of opinion, that except you could bray Christendom in a mortar, and mould it into a new paste, there is no possibility of an holy war. And I was ever of opinion, that the philosophers stone, and an holy war, were but the rendezvous of cracked brains, that wore their feather in their head instead of their hat. Nevertheless, believe me of courtesy, that if you five shall be of another mind, especially after you have heard what I can say, I shall be ready to certify with Hippocrates, that Athens is mad, and Democritus is only sober. And, lest you shall take me for altogether adverse, I will frankly contribute to the business now at first. Ye, no doubt, will amongst you devise and discourse many solemn matters: but do as I shall tell you. This pope is decrepit, and the bell goeth for him. Take order, that when he is dead, there be chosen a pope of fresh years, between fifty and three-score; and see that he take the name of Urban, because a pope of that name did first institute the croisado, and, as with an holy trumpet, did stir up the voyage for the Holy Land.—Eupolis. You say well; but be, I pray you, a little more serious in this conference.

The next day the same persons met as they had appointed; and after they were set, and that there had passed some sporting speeches from Pollio, how the war was already begun; for that, he said, he had dreamt of nothing but Janizaries, and Tartars, and

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Sultans all the night long: Martius said. MARTIUS. The distribution of this conference, which was made by Eupolis yesternight, and was by us approved, seemeth to me perfect, save in one point; and that is, not in the number, but in the placing of the parts. For it is so disposed, that Pollio and Eupolis shall debate the possibility or impossibility of the action, before I shall deduce the particulars of the means and manner by which it is to be achieved. Now I have often observed in deliberations, that the entring near hand into the manner of performance, and execution of that which is under deliberation, hath quite overturned the opinion formerly conceived, of the possibility or impossibility. So that things, that at the first shew seemed possible, by ripping up the performance of them, have been convicted of impossibility; and things that on the other side have shewed impossible, by the declaration of the means to effect them, as by a back light, have appeared possible, the way through them being discerned. This I speak not to alter the order, but only to desire Pollio and Eupolis not to speak peremptorily, or conclusively, touching the point of possibility, till they have heard me deduce the means of the execution: and that done, to reserve themselves at liberty for a reply, after they had before them, as it were, a model of the enterprise. This grave and solid advertisement and caution of Martius was much commended by them all. Whereupon Eupolis said: EUPOLIS. Since Martius hath begun to refine that which was yesternight resolved; I may the better

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have leave, especially in the mending of a proposition, which was mine own, to remember an omission which is more than a misplacing. For I doubt we ought to have added or inserted into the point of lawfulness, the question, how far an holy war is to be pursued, whether to displanting and extermination of people? And again, whether to enforce a new belief, and to vindicate or punish infidelity; or only to subject the countries and people; and so by the temporal sword to open a door for the spiritual sword to enter, by persuasion, instruction, and such means as are proper for souls and consciences? But it may be, neither is this necessary to be made a part by itself; for that Zebedæus, in his wisdom, will fall into it as an incident to the point of lawfulness, which cannot be handled without limitations and distinctions. ZEBEDÆUS. You encourage me, Eupolis, in that I perceive, how in your judgment, which I do so much esteem, I ought to take that course, which of myself I was purposed to do. For as Martius noted well, that it is but a loose thing to speak of possibilities, without the particular designs; so is it to speak of lawfulness without the particular cases. I will therefore first of all distinguish the cases; though you shall give me leave, in the handling of them, not to sever them with too much preciseness; for both it would cause needless length; and we are not now in arts or methods, but in a conference. It is therefore first to be put to question in general, as Eupolis propounded it, whether it be lawful for Christian princes or states to make an invasive war, only and

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simply for the propagation of the faith, without other cause of hostility, or circumstance that may provoke and induce the war?

Secondly, whether, it being made part of the case, that the countries were once Christian, and members of the Church, and where the golden candlesticks did stand, though now they be utterly alienated, and no Christians left; it be not lawful to make a war to restore them to the Church, as an ancient patrimony of Christ? Thirdly, if it be made a farther part of the case, that there are yet remaining in the countries multitudes of Christians, whether it be not lawful to make a war to free them, and deliver them from the servitude of the infidels? Fourthly, whether it be not lawful to make a war for the purging and recovery of consecrated places, being now polluted and prophaned; as the holy city and sepulchre, and such other places of principal adoration and devotion? Fifthly, whether it be not lawful to make a war for the revenge or vindication of blasphemies and reproaches against the Deity and our blessed Saviour; or for the effusion of Christian blood, and cruelties against Christians, though ancient and long since past; considering that God's visits are without limitation of time; and many times do but expect the fulness of the sin? Sixthly, it is to be considered, as Eupolis now last well remembered, whether a holy war, which, as in the worthiness of the quarrel, so in the justness of the prosecution, ought to exceed all temporal wars, may be pursued, either to the expulsion of people, or the en-

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forcement of consciences, or the like extremies; or how to be moderated and limited; lest whilst we remember we are Christians, we forget that others are men? But there is a point that precedeth all these points recited; nay, and in a manner dischargeth them, in the particular of a war against the Turk: which point, I think, would not have come into my thought, but that Martius giving us yesterday a representation of the empire of the Turks, with no small vigour of words, which you, Pollio, called an invective, but indeed a true charge, did put me in mind of it: and the more I think upon it, the more I settle in opinion, that a war to suppress that empire, though we set aside the cause of religion, were a just war. After Zebedæus had said this, he made a pause, to see whether any of the rest would say any thing: but when he perceived nothing but silence, and signs of attention to that he would farther say, he proceeded thus:

Zebedæus. Your lordships will not look for a treatise from me, but a speech of consultation; and in that brevity and manner will I speak. First, I shall agree, that as the cause of a war ought to be just, so the justice of that cause ought to be evident; not obscure, not scrupulous. For by the consent of all laws, in capital causes, the evidence must be full and clear: and if so where one man's life is in question, what say we to a war, which is ever the sentence of death upon many? We must beware therefore how we make a Moloch, or an heathen idol, of our blessed Saviour, in sacrificing the blood

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of men to him by an unjust war. The justice of every action consisteth in the merits of the cause, the warrant of the jurisdiction, and the form of the prosecution. As for the inward intention, I leave it to the court of heaven. Of these things severally, as they may have relation to the present subject of a war against infidels; and namely, against the most potent and most dangerous enemy of the faith, the Turk. I hold, and I doubt not but I shall make it plain, as far as a sum or brief can make a cause plain, that a war against the Turk is lawful, both by the laws of nature and nations, and by the law divine, which is the perfection of the other two. As for the laws positive and civil of the Romans, or others whatsoever, they are two small engines to move the weight of this question. And therefore, in my judgment, many of the late schoolmen, though excellent men, take not the right way in disputing this question; except they had the gift of Navius, that they could, "cotem novacula scindere," hew stones with pen-knives. First, for the law of nature. The philosopher Aristotle is no ill interpreter thereof He hath set many men on work with a witty speech of "natura dominus," and "natura servus;" affirming expressly and positively, that from the very nativity some things are born to rule, and some things to obey: which oracle hath been taken in divers senses. Some have taken it for a speech of ostentation, to intitle the Grecians to an empire over the barbarians; which indeed was better maintained by his scholar Alexander. Some have taken it for a

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speculative platform, that reason and nature would that the best should govern; but not in any wise to create a right. But for my part, I take it neither for a brag, nor for a wish; but for a truth as he limiteth it. For he saith, that if there can be found such an inequality between man and man, as there is between man and beast, or between soul and body, it investeth a right of government: which seemeth rather an impossible case than an untrue sentence. But I hold both the judgment true, and the case possible; and such as hath had, and hath a being, both in particular men and nations. But ere we go farther, let us confine ambiguities and mistakings, that they trouble us not. First, to say that the more capable, or the better deserver, hath such right to govern, as he may compulsorily bring under the less worthy, is idle. Men will never agree upon it, who is the more worthy. For it is not only in order of nature, for him to govern that is the more intelligent, as Aristotle would have it; but there is no less required for government, courage to protect; and above all, honesty and probity of will to abstain from injury. So fitness to govern is a perplexed business. Some men, some nations, excel in the one ability, some in the other. Therefore the position which I intend, is not in the comparative, that the wiser, or the stouter, or the juster nation should govern; but in the privative, that where there is an heap of people, though we term it a kingdom or state, that is altogether unable or indign to govern; there it is a just cause of war for another

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nation, that is civil or policed, to subdue them: and this, though it were to be done by a Cyrus or a Cæsar, that were no Christian. The second mistaking to be banished is, that I understand not this of a personal tyranny, as was the state of Rome under a Caligula, or a Nero, or a Commodus: shall the nation suffer for that wherein they suffer? But when the constitution of the state, and the fundamental customs and laws of the same, if laws they may be called, are against the laws of nature and nations, then, I say, a war upon them is lawful. I shall divide the question into three parts. First, whether there be, or may be any nation or society of men, against whom it is lawful to make a war, without a precedent injury or provocation? Secondly, what are those breaches of the law of nature and nations, which do forfeit and divest all right and title in a nation to govern? And thirdly, whether those breaches of the law of nature and nations be found in any nation at this day? and namely, in the empire of the Ottomans? For the first, I hold it clear that such nations, or states, or society of people, there may be and are. There cannot be a better ground laid to declare this, than to look into the original donation of government. Observe it well, especially the inducement, or preface. Saith God: "Let us make man after our own image, and let him have dominion over the fishes of the sea, and the fowls of the air and the beasts of the land, &c." Hereupon De Victoria, and with him some others, infer excellently, and extract a most true and divine aphorism, "Non fundatur dominiumnisi in imagine Dei". Here we have

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the charter of foundation: it is now the more easy to judge of the forfeiture or reseizure. Deface the image, and you divest the right. But what is this image, and how is it defaced? The poor men of Lyons, and some fanatical spirits, will tell you, that the image of God is purity; and the defacement, sin. But this subverteth all government: neither did Adam's sin, or the curse upon it, deprive him of his rule, but left the creatures to a rebellion or reluctation. And therefore if you note it attentively, when this charter was renewed unto Noah and his sons, it is not by the words, "You shall have dominion; but Your fear shall be upon all the beasts of the land, and the birds of the air, and all that moveth:" not regranting the sovereignty, which stood firm; but protecting it against the reluctation. The sound interpreters therefore expounded this image of God, of natural reason; which if it be totally or mostly defaced, the right of government doth cease; and if you mark all the interpretes well, still they doubt of the case, and not of the law. But this is properly to be spoken to in handling the second point, when we shall define of the defacements. To go on: The prophet Hosea, in the person of God, saith of the Jews; "They have reigned, but not by me; they have set a seigniory over themselves, but I knew nothing of it". Which place proveth plainly, that there are governments which God doth not avow. For though they be ordained by his secret providence, yet they are not acknowledged by his revealed will. Neither can this be meant of evil governors or

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tyrants: for they are often avowed and established, as lawful potentates; but of some perverseness and defection in the very nation itself; which appeareth most manifestly in that the prophet speaketh of the seigniory "in abstracto", and not of the person of the Lord. And although some heretics of those we speak of have abused this text, yet the sun is not soiled in passage. And again, if any man infer upon the words of the prophet following, which declare this rejection, and, to use the words of the text, rescission of their estate to have been for their idolatry, that by this reason the governments of all idolatrous nations should be also dissolved, which is manifestly untrue, in my judgment it followeth not. For the idolatry of the Jews then, and the idolatry of the Heathen then and now, are sins of a far differing nature, in regard of the special covenant, and the clear manifestations wherein God did contract and exhibit himself to that nation. This nullity of policy, and right of estate in some nations, is yet more significantly expressed by Moses in his canticle; in the person of God to the Jews: "Ye have incensed me with gods that are no gods, and I will incense you with a people that are no people:" Such as were, no doubt, the people of Canaan, after seisin was given of the land of promise to the Israelites. For from that time their right to the land was dissolved, though they remained in many places unconquered. By this we may see, that there are nations in name, that are no nations in right, but multitudes only, and swarms of people. For like as there are par-

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ticular persons outlawed and proscribed by civil laws of several countries; so are there nations that are outlawed and proscribed by the law of nature and nations, or by the immediate commandment of God. And as there are kings "de facto," and not "de jure," in respect of the mullity of their title; so are there nations that are occupants "de facto, and not "de jure," of their territories, in respect of the nullity of their policy or government. But let us take in some examples into the midst of our proofs; for they will prove as much as put after, and illustrate more. It was never doubted, but a war upon pirates may be lawfully made by any nation, though not infested or violated by them. Is it because they have not "certas sedes," or "lares?" In the piratical war which was achieved by Pompey the Great, and was his truest and greatest glory, the pirates had some cities, sundry ports, and a great part of the province of Cilicia; and the pirates now being, have a receptacle and mansion in Algiers. Beasts are not the less savage because they have dens. Is it because the danger hovers as a cloud, that a man cannot tell where it will fall; and so it is every man's case? The reason is good, but it is not all, nor that which is most alledged. For the true received reason is, that pirates are "communes humani generis hostes;" whom all nations are to prosecute, not so much in the right of their own fears, as upon the band of human society. For as there are formal and written leagues, respective to

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certain enemies; so is there a natural and tacit confederation amongst all men, against the common enemy of human society. So as there needs no intimation, or denunciation of the war; there needs no request from the nation grieved: but all these formalities the law of nature supplies in the case of pirates. The same is the case of rovers by land; such as yet are some cantons in Arabia, and some petty kings of the mountains, adjacent to straits and ways. Neither is it lawful only for the neighbour princes to destroy such pirates or rovers, but if there were any nation never so far off, that would make it an enterprise of merit and true glory, as the Romans that made a war for the liberty of Græcia from a distant and remote part, no doubt they might do it. I make the same judgment of that kingdom of the assassins now destroyed, which was situate upon the borders of Saraca; and was for a time a great terror to all the princes of the Levant. Their custom was, that upon the commandment of their king, and a blind obedience to be given thereunto, any of them was to undertake in the nature of a votary, the insidious murder of any prince, or person, upon whom the commandment went. This custom, without all question, made their whole government void, as an engine built against human society, worthy by all men to be fired and pulled down. I say the like of the anabaptists of Munster; and this, although they had not been rebels to the empire: and put case likewise that they had

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done no mischief at all actually, yet if there shall be a congregation and consent of people, that shall hold all things to be lawful, not according to any certain laws or rules, but according to the secret and variable motions and instincts of the spirit; this is indeed no nation, no people, no seigniory, that God doth know; any nation that is civil and policed, may, if they will not be reduced, cut them off from the face of the earth. Now let me put a feigned case, and yet antiquity makes it doubtful whether it were fiction or history, of a land of Amazons, where the whole government public and private, yea, the militia itself, was in the hands of women. I demand, is not such a preposterous government, against the first order of nature, for women to rule over men, in itself void, and to be suppressed? I speak not of the reign of women, for that is supplied by counsel, and subordinate magistrates masculine, but where the regiment of state justice, families, is all managed by women. And yet this last case differeth from the other before, because in the rest there is terror of danger, but in this there is only error of nature. Neither should I make any great difficulty to affirm the same of the sultanry of the Mamalukes; where slaves, and none but slaves, bought for money, and of unknown descent, reigned over families of freemen. And much like were the case, if you suppose a nation, where the custom were, that after full age the sons should expulse their fathers

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and mothers out of their possessions, and put them to their pensions: for these cases, of women to govern men, sons the fathers, slaves freemen, are much in the same degree; all being total violations and perversions of the laws of nature and nations. For the West-Indies, I perceive, Martius, you have read Garcilazzo de Viega, who himself was descended of the race of the Incas, a Mestizo, and is willing to make the best of the virtues and manners of his country: and yet in troth he doth it soberly and credibly enough. Yet you shall hardly edify me, that those nations might not by the law of nature have been subdued by any nation, that had only policy and moral virtue; though the propagation of the faith, whereof we shall speak in the proper place, were set by, and not made part of the case. Surely their nakedness, being with them, in most parts of that country, without all vail or covering, was a great defacement: for in the acknowledgment of nakedness was the first sense of sin; and the heresy of the Adamites was ever accounted an affront of nature. But upon these I stand not; nor yet upon their idiocy, in thinking that horses did eat their bits, and letters speak, and the like: nor yet upon their sorceries, which are, almost, common to all idolatrous nations. But, I say, their sacrificing, and more especially their eating of men, is such an abomination, as, methinks, a man's face should be a little confused, to deny, that this custom, joined with the rest, did not make it lawful for the Spaniards to invade their terri-

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tory, forfeited by the law of nature; and either to reduce them or displant them. But far be it from me, yet nevertheless, to justify the cruelties which were at first used towards them: which had their reward soon after, there being not one of the principal of the first conquerors, but died a violent death himself; and was well followed by the deaths of many more. Of examples enough: except we should add the labours of Hercules; an example, which though it be flourished with much fabulous matter, yet so much it hath, that it doth notably set forth the consent of all nations and ages, in the approbation of the extirpating and debellating of giants, monsters, and foreign tyrants, not only as lawful, but as meritorious even of divine honour: and this although the deliverer came from the one end of the world unto the other. Let us now set down some arguments to prove the same; regarding rather weight than number, as in such a conference as this is fit. The first argument shall be this. It is a great error, and a narrowness or straitness of mind, if any man think, that nations have nothing to do one with another, except there be either an union in sovereignty, or a conjunction in pacts or leagues. There are other bands of society, and implicit confederations. That of colonies, or transmigrants, towards their mother nation. "Gentes unius labii" is somewhat; for as the confusion of tongues was a mark of separation, so the being of one language is a mark of union. To have the same fundamental laws and customs in chief

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is yet more, as it was between the Grecians in respect of the barbarians. To be of one sect or worship; if it be a false worship, I speak not of it, for that is but "fratres in malo." But above all these, there is the supreme and indissoluble consanguinity and society between men in general: of which the heathen poet, whom the apostle calls to witness, saith, "We are all his generation." But much more we Christians, unto whom it is revealed in particularity, that all men came from one lump of earth; and that two singular persons were the parents from whom all the generations of the world are descended: we, I say, ought to acknowledge, that no nations are wholly aliens and strangers the one to the other; and not to be less charitable than the person introduced by the comic poet, "Homo sum, humani nihil a me alienum puto." Now if there be such a tacit league or confederation, sure it is not idle; it is against somewhat, or somebody: who should they be? Is it against wild beasts; or the elements of fire and water? No, it is against such routs and shoals of people, as have utterly degenerated from the laws of nature; as have in their very body and frame of estate a monstrosity; and may be truly accounted, according to the examples we have formerly recited, common enemies and grievances of mankind; or disgraces and reproaches to human nature. Such people, all nations are interessed, and ought to be resenting, to suppress; considering that the particular states themselves, being the delinquents, can give no

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redress. And this, I say, is not to be measured so much by the principles of jurists, as by "lex charitatis; lex proximi," which includes the Samaritan as well as the Levite; "lex filiorum Adæ de massa una:" upon which original laws this opinion is grounded: which to deny, if a man may speak freely, were almost to be a schismatic in nature.

[The rest was not perfected.]

THE LORD BACON'S QUESTIONS ABOUT THE LAWFULNESS OF A WAR FOR THE PROPAGATING OF RELIGION.

QUESTIONS WHEREIN I DESIRE OPINION JOINED WITH ARGUMENTS AND AUTHORITIES.

WHETHER a war be lawful against infidels, only for the propagation of the Christian faith, without other cause of hostility?

Whether a war be lawful to recover to the Church countries which formerly have been Christian, though now alienate, and Christians utterly extirpated?

Whether a war be lawful, to free and deliver Christians that yet remain in servitude and subjection to infidels?

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Whether a war be lawful in revenge, or vindication, of blasphemy, and reproaches against the Deity and our Saviour? Or for the ancient effusion of Christian blood, and cruelties upon Christians?

Whether a war be lawful for the restoring and purging of the holy land, the sepulchre, and other principal places of adoration and devotion?

Whether, in the cases aforesaid, it be not obligatory to Christian princes to make such a war, and not permissive only?

Whether the making of a war against the infidels be not first in order of dignity, and to be preferred before extirpations of heresies, reconcilements of schisms, reformation of manners, pursuits of just temporal quarrels, and the like actions for the public good; except there be either a more urgent necessity, or a more evident facility in those inferior actions, or except they may both go on together in some degree?

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MISCELLANEOUS.

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MR. BACON'S DISCOURSE IN THE PRAISE OF HIS SOVEREIGN.

No praise of magnanimity, nor of love, nor of knowledge, can intercept her praise, that planteth and nourisheth magnanimity by her example, love by her person, and knowledge by the peace and serenity of her times. And if these rich pieces be so fair unset, what are they set, and set in all perfection? Magnanimity no doubt consisteth in contempt of peril, in contempt of profit, and in meriting of the times wherein one liveth. For contempt of peril, see a lady that cometh to a crown after the experience of some adverse fortune, which for the most part extenuateth the mind, and maketh it apprehensive of fears. No sooner she taketh the sceptre into her sacred hands, but she putteth on a resolution to make the greatest, the most important, the most dangerous that can be in a state, the alteration of religion. This she doth, not after a sovereignty established and continued by sundry years, when custom might have bred in her people a more absolute obedience; when trial of her servants might have made her more assured whom to employ; when the reputation of her policy and virtue might have made her government redoubted: but at the very entrance of her reign, when she was

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green in authority, her servants scant known unto her, the adverse part not weakened, her own part not confirmed. Neither doth she reduce or reunite her realm to the religion of the states about her, that the evil inclination of the subject might be countervailed by the good correspondence in foreign parts: but contrariwise, she introduceth a religion exterminated and persecuted both at home and abroad. Her proceeding herein is not by degrees and by stealth, but absolute and at once. Was she encouraged thereto by the strength she found in leagues and alliances with great and potent confederates? No, but she found her realm in wars with her nearest and mightiest neighbours. She stood single and alone, and in league only with one, that after the people of her nation had made his wars, left her to make her own peace; one that could never be by any solicitation moved to renew the treaties; and one that since hath proceeded from doubtful terms of amity to the highest acts of hostility. Yet, notwithstanding the opposition so great, the support so weak, the season so improper; yet, I say, because it was a religion wherein she was nourished and brought up; a religion that freed her subjects from pretence of foreign powers, and indeed the true religion; she brought to pass this great work with successs worthy so noble a resolution. See a queen that, when a deep and secret conspiracy was plotted against her sacred person, practised by subtile instruments, embraced by violent and desperate humours, strengthened and bound by vows and

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sacraments, and the same was revealed unto her, (and yet the nature of the affairs required further ripening before the apprehension of any of the parties,) was content to put herself into the guard of the divine providence, and her own prudence, to have some of the conspirators in her eyes, to suffer them to approach to her person, to take a petition of the hand that was conjured for her death; and that with such majesty of countenance, such mildness and serenity of gesture, such art and impression of words, as had been sufficient to have repress and bound the hand of a conspirator, if he had not been discovered. Lastly, see a queen, that when her realm was to have been invaded by an army, the preparation whereof was like the travel of an elephant, the provisions were infinite, the setting forth whereof was the terror and wonder of Europe; it was not seen that her chear, her fashion, her ordinary manner was any thing altered: not a cloud of that storm did appear in that countenance wherein peace doth ever shine; but with excellent assurance, and advised security, she inspired her council, animated her nobility, redoubled the courage of her people, still having this noble apprehension, not only that she would communicate her fortune with them, but that it was she that would protect them, and not they her: which she testified by no less demonstration than her presence in camp. Therefore, that magnanimity that neither feareth greatness of alteration, nor the views of conspirators, nor the power of enemy, is more than heroical.

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For contempt of profit, consider her offers, consider her purchases. She hath reigned in a most populous and wealthy peace, her people greatly multiplied, wealthily appointed, and singularly devoted. She wanted not the example of the power of her arms in the memorable voyages and invasions prosperously made and atchieved by sundry her noble progenitors. She had not wanted pretences, as well of claim and right, as of quarrel and revenge. She hath reigned during the minority of some of her neighbour princes, and during the factions and divisions of their people upon deep and irreconcilable quarrels, and during the embracing greatness of some one that hath made himself so weak through too much burthen, as others are through decay of strength; and yet see her sitting as it were within the compass of her sands. Scotland, that doth as it were eclipse her island; the United Provinces of the Low Countries, which for wealth, commodity of traffic, affection to our nation, were most meet to be annexed to this crown; she left the possession of the one, and refused the sovereignty of the other: so that notwithstanding the greatness of her means, the justness of her pretences, and the rareness of her opportunity, she hath continued her first mind, she hath made the possessions which she received the limits of her dominions, and the world the limits of her name, by a peace that hath stained all victories.

For her merits, who doth not acknowledge, that she hath been as a star of most fortunate influence upon the age wherein she hath shined? Shall we

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speak of merit of clemency? or merit of beneficence? Where shall a man take the most proper and natural trial of her royal clemency? Will it best appear in the injuries that were done unto her before she attained the crown? or after she is seated in her throne? or that the commonwealth is incorporated in her person? Then clemency is drawn in question, as a dangerous encounter of justice and policy. And therefore, who did ever note, that she did relent, after that she was established in her kingdom, of the wrongs done unto her former estate? Who doth not remember how she did revenge the rigour and rudeness of her jailor by a word, and that no bitter but salt, and such as shewed rather the excellency of her wit than any impression of her wrong? Yea, and further, is it not so manifest, that since her reign, notwithstanding the principle that princes should not neglect, "That the Commonwealth's wrong is included in themselves;" yet when it is question of drawing the sword, there is ever a conflict between the justice of her place, joined with the necessity of her state and her royal clemency, which as a sovereign and precious balm continually distilleth from her fair hands, and falleth into the wounds of many that have incurred the offence of her law.

Now, for her beneficence, what kind of persons have breathed during her most happy reign, but have had the benefit of her virtues conveyed unto them? Take a view, and consider, whether they have not extended to subjects, to neighbours, to remote strangers, yea, to her greatest enemies. For her subjects,

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where shall we begin in such a maze of benefits as presenteth itself to remembrance? Shall we speak of the purging away of the dross of religion, the heavenly treasure; or that of money, the earthly treasure? The greater was touched before, and the latter deserveth not to be forgotten. For who believeth not, that knoweth any thing in matter of estate, of the great absurdities and frauds that arise of divorcing the legal estimation of moneys from the general, and, as I may term it, natural estimation of metals, and again of the uncertainty and wavering values of coins, a very labyrinth of cousenages and abuse, yet such as great princes have made their profit of towards their own people. Pass on from the mint to the revenue and receipts: there shall you find, no raising of rents, notwithstanding the alteration of prices and the usage of the times; but the over value, besides a reasonable fine left for the relief of tenants and reward of servants; no raising of customs, notwithstanding her continual charges of setting to the sea; no extremity taken of forfeiture and penal laws, means used by some kings for the gathering of great treasures. A few forfeitures, indeed, not taken to her own purse, but set over to some others for the trial only, whether gain could bring those laws to be well executed, which the ministers of justice did neglect. But after it was found, that only compassions were used, and the law never the nearer the execution, the course was straight suppressed and discontinued. Yea, there have been made laws more than one in her time for

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the restraint of the vexation of informers and promoters: nay, a course taken by her own direction for the repealing of all heavy and snared laws, if it had not been crossed by those to whom the benefit should have redounded. There shall you find, no new taxes, impositions, nor devices; but the benevolence of the subject freely offered by assent of parliament, according to the ancient rates, and with great moderation in assessment; and not so only, but some new forms of contribution offered likewise by the subject in parliament; and the demonstration of their devotion only accepted, but the thing never put in ure. There shall you find loans, but honourably answered and paid, as it were the contract of a private man. To conclude, there shall you find moneys levied upon faults of lands, alienation, though not of the ancient patrimony, yet of the rich and commodious purchases and perquisites of the crown only, because she will not be grievous and burthensome to the people. This treasure, so innocently levied, so honourably gathered and raised, with such tenderness to the subject, without any baseness or dryness at all, how hath it been expended and employed? Where be the wasteful buildings, and the exorbitant and prodigal donatives, the sumptuous dissipations in pleasures, and vain ostentations which we find have exhausted the coffers of so many kings? It is the honour of her house, the royal remunerating of her servants, the preservation of her people and state, the protection of her suppliants and allies, the encounter, breaking, and defeating the

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enemies of her realm, that hath been the only pores and pipes whereby the treasure hath issued. Hath it been the sinews of a blessed and prosperous peace? Hath she bought her peace? Hath she lent the king of Spain money upon some cavillation not to be repeated, and so bought his favour? And hath she given large pensions to corrupt his council? No, but she hath used the most honourable diversion of troubles that can be in the world. She hath kept the fire from her own walls by seeking to quench it in her neighbours. That poor brand of the state of Burgundy, and that other of the crown of France that remaineth, had been in ashes but for the ready fountain of her continual benignity. For the honour of her house it is well known, that almost the universal manners of the times doth incline to a certain parsimony and dryness in that kind of expence; yet she retaineth the ancient magnificence, the allowance as full, the charge greater than in time of her father, or any king before; the books appear, the computation will not flatter. And for the remunerating and rewarding of her servants, and the attendance of the court, let a man cast and sum up all the books of gifts, fee-farms, leases and custodies that have passed her bountiful hands. Let him consider again what a number of commodious and gainful offices heretofore bestowed upon men of other education and profession, have been withdrawn and conferred upon her court. Let him remember, what a number of other gifts disguised by other names, but in effect as good as money given out of her coffers, have been granted

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by her; and he will conclude, that her royal mind is far above her means. The other benefits of her politic, clement, and gracious government towards the subjects are without number; the state of justice good, notwithstanding the great subtilty and humourous affections of these times; the security of peace greater than can be described by that verse;

"Tutus bos etenim rura perambulat:
"Nutrit rura Ceres, almaque Faustitas."

Or that other,

"Condit quisque diem collibus in suis."

The opulency of the peace such, as if you have respect, to take one sign for many, to the number of fair houses that have been built since her reign, as Augustus said, "that he had received the city of brick, and left it of marble;" so she may say, she received it a realm of cottages, and hath made it a realm of palaces: the state of traffic great and rich: the customs, notwithstanding these wars and interruptions, not fallen: many profitable trades, many honourable discoveries: and lastly, to make an end where no end is, the shipping of this realm so advanced and made so mighty and potent, as this island is become, as the natural site thereof deserved, the lady of the sea; a point of so high consequence, as it may be truly said, that the commandment of the sea is an abridgement or a quintessence of an universal monarchy.

This and much more hath she merited of her subjects: now to set forth the merit of her neighbours and the states about her. It seemeth the

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things have made themselves purveyors of continual, new, and noble occasions for her to shew them benignity, and that the fires of troubles abroad have been ordained to be as lights and tapers to make her virtue and magnanimity more apparent. For when that one, stranger born, the family of Guise, being as a hasty weed sprung up in a night, had spread itself to a greatness, not civil but seditious; a greatness, not of encounter of the ancient nobility, not of preeminency in the favour of kings, and not remiss of affairs from kings; but a greatness of innovation in state, of usurpations of authority, of affecting of crowns; and that accordingly, under colour of consanguinity and religion, they had brought French forces into Scotland, in the absence of their king and queen being within their usurped tutele; and that the ancient nobility of this realm, seeing the imminent danger of reducing that kingdom under the tyranny of foreigners and their faction, had, according to the good intelligence betwixt the two crowns, prayed her neighbourly succours: she undertook the action, expelled the strangers, restored the nobility to their degree. And lest any man should think her intent was to unnestle ill neighbours, and not to aid good neighbours, or that she was readier to restore what was invaded by others than to render what was in her own hands; see if the time provided not a new occasion afterwards, when through their own divisions, without the intermise of strangers, her forces were again sought and required; she forsook them not, prevailed so far as to be possessed of the

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castle of Edinburgh, the principal strength of that kingdom, with peace, incontinently, without cunctations or cavillations, the preambles of a wavering faith, she rendered with all honour and security; and his person to safe and faithful hands; and so ever after during his minority continued his principal guardian and protector. In the time and between the two occasions of Scotland, when the same faction of Guise, covered still with pretence of religion, and strengthened by the desire of retaining government in the queen-mother of France, had raised and moved civil wars in that kingdom, only to extirpate the ancient nobility, by shocking them one against another, and to waste that realm as a candle which is lighted at both ends: and that those of the religion, being near of the blood-royal, and otherwise of the greatest house in France, and great officers of the crown opposed themselves only against their insolency, and to their supports called in her aid, giving unto them Newhaven for a place of security: see with what alacrity, in tender regard towards the fortune of that young king, whose name was used to the suppliants of his strength, she embraced the enterprise; and by their support and reputation the same party suddenly made great proceedings, and in conclusion made their peace as they would themselves: and although they joined themselves against her, and performed the parts rather of good patriots than of good confederates, and that after great demonstration of valour in her subjects. For as the French will to this day report, specially

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by the great mortality by the hand of God, and the rather because it is known she did never much affect the holding of that town to her own use; it was left, and her forces withdrawn, yet did that nothing diminish her merit of the crown, and namely of that party who recovered by it such strength, as by that and no other thing they subsisted long after: and lest that any should sinisterly and maliciously interpret that she did nourish those divisions; who knoweth not what faithful advice, continual and earnest solicitation she used by her ambassadors and ministers to the French kings successively, and to their mother, to move them to keep their edicts of pacification, to retain their own authority and greatness by the union of her subjects? Which counsel, if it had been as happily followed, as it was prudently and sincerely given, France at this day had been a most flourishing kingdom, which now is a theatre of misery. And now at last, when the said house of Guise, being one of the whips of God, whereof themselves are but the cords, and Spain the stock, had by their infinite aspiring practices wrought the miracles of states, to make a king in possession long established to play again for his crown, without any title of a competitor, without any invasion of a foreign enemy, yea, without any combination in substance of a blood-royal or nobility; but only by furring in audacious persons into sundry governments, and by making the populace of towns drunk with seditious preachers: and that king Henry the Third, awaked by those pressing dangers, was compelled to execute

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the duke of Guise without ceremony; and yet nevertheless found the despair of so many persons embarked and engaged in that conspiracy, so violent, as the flame thereby was little assuaged; so that he was inforced to implore her aids and succours. Consider how benign care and good correspondence she gave to the distressed requests of that king; and he soon after being, by the sacrilegious hand of a wretched Jacobin lifted up against the sacred person of his natural sovereign, taken away, not wherein the criminous blood of Guise, but the innocent blood which he hath often spilled by instigation of him and his house was revenged, and that this worthy gentleman who reigneth come to the crown; it will not be forgotten by so grateful a king, nor by so observing an age, how ready, how opportune and reasonable, how royal and sufficient her succours were, whereby she enlarged him at that time, and preferred him to his better fortune: and ever since in those tedious wars, wherein he hath to do with a Hydra, or a monster with many heads, she hath supported him with treasure, with forces, and with employment of one that she favoureth most. What shall I speak of the offering of Don Anthony to his fortune; a devoted catholic, only commended unto her by his oppressed state? What shall I say of the great storm of a mighty invasion, not of preparation, but in act, by the Turk upon the king of Poland, lately dissipated only by the beams of her reputation: which with the Grand Signor is greater than that of all the states of Europe put together? But let me rest upon the

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honourable and continual aid and relief she hath gotten to the distressed and desolate people of the Low Countries; a people recommended unto her by ancient confederacy and daily intercourse, by their cause so innocent, and their fortune so lamentable. And yet notwithstanding, to keep the conformity of her own proceeding never stained with the least note of ambition or malice, she refused the sovereignty of divers of those goodly provinces offered unto her with great instance, to have been accepted with great contentment both of her own people and others, and justly to be derived either in respect of the hostility of Spain, or in respect of the conditions, liberties and privileges of those subjects, and without charge, danger, and offence to the king of Spain and his partisans. She hath taken upon her their defence and protection without any further avail or profit unto herself, than the honour and merit of her benignity to the people that hath been pursued by their natural king only upon passion and wrath, in such sort that he doth consume his means upon revenge. And, having to verify that which I said, that her merits have extended to her greatest enemies; let it be remembered what hath passed in that matter between the king of Spain and her: how in the beginning of the troubles there, she gave and imparted to him faithful and friendly advice touching the course that was to be taken for quieting and appeasing of them. Then she interposed herself to most just and reasonable capitulations, wherein always should have been preserved unto him as ample interest, juris-

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diction, and superiority in those countries as he in right could claim, or a prince well-minded would seek to have: and, which is the greatest point, she did by her advice, credit and policy, and all good means, interrupt and appeach, that the same people by despair should not utterly alien and distract themselves from the obedience of the king of Spain, and cast themselves into the arms of a stranger: insomuch, that it is most true, that she did ever persuade the duke of Anjou from that action, notwithstanding the affection she bare to that duke, and the obstinacy which she saw daily growing in the king of Spain. Lastly, to touch the mighty general merit of this queen, bear in mind, that her benignity and beneficence hath been as large as the oppression and ambition of Spain. For to begin with the church of Rome, that pretended apostolic see is become but a donative cell of the king of Spain; the vicar of Christ is become the king of Spain's chaplain; he parteth the coming in of the new pope, for the treasure of the old: he was wont to exclude but some two or three cardinals, and to leave the election of the rest; but now he doth include, and present directly some small number, all incapable and incompatible with the conclave, put in only for colour, except one or two. The states of Italy, they be like little quillets of freehold being intermixed in the midst of a great honour or lordship: France is turned upside down, the subject against the king, cut and mangled infinitely, a country of Rodamonts and Roytelets, farmers of the ways: Portugal usurped by no other title than strength and vicinity: the Low Countries

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warred upon, because he seeketh, not to possess them, for they were possessed by him before, but to plant there an absolute and martial government, and to suppress their liberties: the like at this day attempted upon Arragon: the poor Indies, whereas the Christian religion generally brought infranchisement of slaves in all places where it came, in a contrary course are brought from freemen to be slaves, and slaves of most miserable condition: sundry trains and practices of this king's ambition in Germany, Denmark, Scotland, the east towns, are not unknown. Then it is her government, and her government alone, that hath been the sconce and fort of all Europe, which hath lett this proud nation from over-running all. If any state be yet free from his factions erected in the bowels thereof; if there be any state wherein this faction is erected, that is not yet fired with civil troubles; if there be any state under his protection upon whom he usurpeth not; if there be any subject to him that enjoyeth moderate liberty, upon whom he tyrannizeth not: let them all know, it is by the mercy of this renowned queen, that standeth between them and their misfortunes. These be some of the beams of noble and radient magnanimity, in contempt of peril which so manifestly, in contempt of profit which so many admire, and in merit of the world which so many include in themselves; set forth in my simplicity of speech with much loss of lustre, but with near approach of truth; as the sun is seen in the water.

Now to pass to the excellencies of her person:

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the view of them wholly and not severally, do make so sweet a wonder, as I fear to divide them. Again, nobility extracted out of the royal and victorious line of the kings of England; yea, both roses, white and red, do as well flourish in her nobility as in her beauty, as health, such as was like she should have that was brought forth by two of the most goodly princes of the world, in the strength of their years, in the heat of their love; that hath been injured neither with an over-liberal nor over-curious diet, that hath not been sustained by an umbratile life still under the roof, but strengthened by the use of the pure and open air, that still retaineth flower and vigour of youth. For the beauty and many graces of her presence, what colours are fine enough for such a portraiture? let no light poet be used for such a description, but the chastest and the royalest:

Of her gait; "Et vera incessu patuit Dea."
Of her voice; "Nec vox hominem sonat."
Of her eye; "Et lætos oculis afflavit honores."
Of her colour; "Indum sanguineo veluti violaverit ostro Si quis ebur."
Of her neck; "Et rosea cervice refulsit."
Of her breast; "Veste sinus collecta fluentes."
Of her hair; "Ambrosiæque comæ divinum vertice odorem
Spiravere."

If this be presumption, let him bear the blame that owneth the verses. What shall I speak of her

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rare qualities of compliment; which as they be excellent in the things themselves, so they have always besides somewhat of a queen: and as queens use shadows and veils with their rich apparel; methinks in all her qualities there is somewhat that flieth from ostentation, and yet inviteth the mind to contemplate her more?

What should I speak of her excellent gift of speech, being a character of the greatness of her conceit, the height of her degree, and the sweetness of her nature? What life, what edge is there in those words and glances wherewith at pleasure she can give a man long to think; be it that she mean to daunt him, to encourage him, or to amaze him! How admirable is her discourse, whether it be in learning, state, or love! what variety of knowledge; what rareness of conceit; what choice of words; what grace of utterance! Doth it not appear, that though her wit be as the adamant of excellencies, which draweth out of any book ancient or new, out of any writing or speech, the best; yet she refineth it, she enricheth it far above the value wherein it is received? And is her speech only that language which the child learneth with pleasure, and not those which the studious learn with industry? Hath she not attained, besides her rare eloquence in her own language, infinitely polished since her happy times, changes of her languages both learned and modern? so that she is able to negotiate with divers ambassadors in their own languages; and that with no

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disadvantage unto them, who I think cannot but have a great part of their wits distracted from their matters in hand to the contemplation and admiration of such perfections. What should I wonder on to speak of the excellencies of her nature, which cannot endure to be looked on with a discontented eye: of the constancy of her favours, which maketh service as a journey by land, whereas the service of other princes is like an embarking by sea. For her royal wisdom and policy of government, he that shall note and observe the prudent temper she useth in admitting access; of the one side maintaining the majesty of her degree, and on the other side not prejudicing herself by looking to her estate through too few windows: her exquisite judgment in choosing and finding good servants, a point beyond the former, her profound discretion in assigning and appropriating every of them to their aptest employment: her penetrating sight in discovering every man's ends and drifts: her wonderful art in keeping servants in satisfaction, and yet in appetite: her inventing wit in contriving plots and overturns: her exact caution in censuring the propositions of others for her service: her foreseeing events: her usage of occasions: he that shall consider of these, and other things that may not well be touched, as he shall never cease to wonder at such a queen, so he shall wonder the less, that in so dangerous times, when wits are so cunning, humours extravagant, passions so violent, the corruptions so great, the dissimulations so deep, factions so many; she hath not-

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withstanding done such great things, and reigned in felicity.

To speak of her fortune, that which I did reserve for a garland of her honour; and that is, that she liveth a virgin, and hath no children: so it is that which maketh all her other virtues and acts more sacred, more august, more divine. Let them leave children that leave no other memory in their times: "Brutorum æternitas, soboles." Revolve in histories the memories of happy men, and you shall not find any of rare felicity but either he died childless, or his line spent soon after his death; or else was unfortunate in his children. Should a man have them to be slain by his vassals, as the "posthumus" of Alexander the Great was? or to call them his imposthumes, as Augustus Cæsar called his? Peruse the catalogue: Cornelius Sylla, Julius Cæsar, Flavius Vespasianus, Severus, Constantinus the Great, and many more. "Generare et liberi, humana: creare et operari, divina." And therefore, this objection removed, let us proceed to take a view of her felicity.

A mate of fortune she never took: only some adversity she passed at the first, to give her a quicker sense of the prosperity that should follow, and to make her more reposed in the divine providence. Well, she cometh to the crown: it was no small fortune to find at her entrance some such servants and counsellors as she then found. The French king, who at this time, by reason of the peace concluded with Spain, and of the interest he had in

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Scotland, might have proved a dangerous neighbour: by how strange an accident was he taken away? The king of Spain, who, if he would have inclined to reduce the Low Countries by lenity, considering the goodly revenues which he drew from those countries, the great commodity to annoy her state from thence, might have made mighty and perilous matches against her repose; putteth on a resolution not only to use the means of those countries, but to spend and consume all his other means, the treasure of his Indies, and the forces of his ill-compacted dominions there and upon them. The Carles that rebelled in the North, before the Duke of Norfolk's plot, which, indeed, was the strength and seal of that commotion, was fully ripe, brake forth, and prevented their time. The king Sebastian of Portugal, whom the king of Spain would fain have persuaded that it was a devouter enterprise to purge Christendom, than to enlarge it, though I know some think that he did artificially nourish him in that voyage, is cut a-pieces with his army in Africa: then hath the king of Spain work cut out to make all things in readiness during the old cardinal's time for the conquest of Portugal; whereby his desire of invading of England was slackened and put off some years, and by that means was put in execution at a time for some respects much more to his disadvantage. And the same invasion, like and as if it had been attempted before, it had the time much more proper and favourable; so likewise had it in true discourse a better season afterwards: for,

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if it had been dissolved till time that the League had been better confirmed in France; which no doubt would have been, if the duke of Guise, who was the only man of worth on that side, had lived; and the French king durst never have laid hand upon him, had he not been animated by the English victory against the Spaniards precedent. And then, if some maritime town had been gotten into the hands of the League, it had been a great surety and strength to the enterprise. The popes, to consider of them whose course and policy it had been, knowing her majesty's natural clemency, to have temporized and dispensed with the Papists coming to church, that through the mask of their hypocrisy they might have been brought into places of government in the state and in the country: these, contrariwise, by the instigation of some fugitive scholars that advised him, not that was best for the see of Rome, but what agreed best with their eager humours and desperate states; discover and declare themselves so far by sending most seminaries, and taking of reconcilements, as there is now severity of laws introduced for the repressing of that sort, and men of that religion are become the suspect. What should I speak of so many conspiracies miraculously detected? the records shew the treasons: but it is yet hidden in many of them how they came to light. What should I speak of the opportune death of her enemies, and the wicked instruments towards her estate? Don Juan died not amiss: Darleigh, duke of Lenox, who was used as an instrument to divorce Scot-

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land from the amity of England, died in no ill season: a man withdrawn indeed at that time to France; but not without great help. I may not mention the death of some that occur to mind: but still methinks, they live that should live, and they die that should die. I would not have the king of Spain die yet; he is "seges gloriæ:" but when he groweth dangerous, or any other besides him; I am persuaded they will die. What should I speak of the fortunes of her armies, which, notwithstanding the inward peace of this nation, were never more renowned? What should I recount Leith and Newhaven for the honourable skirmishes and services? they are no blemish at all to the militia of England.

In the Low Countries; the Lammas day, the retreat of Ghent, the day of Zutphen, and the prosperous progress of this summer: the bravado in Portugal, and the honourable exploits in the aid of the French king, besides the memorable voyages in the Indies; and lastly, the good entertainment of the invincible navy, which was chased till the chasers were weary, after infinite loss, without taking a cock-boat, without firing a sheep-cot, sailed on the mercies of the wind, and the discretion of their adventures, making a perambulation or pilgrimage about the northern seas, and ignobling many shores and points of land by shipwreck: and so returned home with scorn and dishonour much greater, than the terror and expectation of their setting forth.

These virtues and perfections, with so great feli-

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city, have made her the honour of her times, the admiration of the world, the suit and aspiring of greatest kings and princes, who yet durst never have aspired unto her, but as their minds were raised by love.

But why do I forget that words do extenuate and embase matters of so great weight? Time is her best commander, which never brought forth such a prince, whose imperial virtues contend with the excellency of her person: both virtues contend with her fortune: and both virtue and fortune contend with her fame.

> "Orbis amor, famæ carmen, cœlique pupilla:
> Tu decus omne tuis, tu decus ipsa tibi!"

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A PROCLAMATION DRAWN FOR HIS MAJESTY'S FIRST COMING IN.

[PREPARED, BUT NOT USED.]

HAVING great cause, at this time, to be moved with diversity of affections, we do in first place condole with all our loving subjects of England, for the loss of their so virtuous and excellent queen; being a prince that we always found a dear sister, yea a mother to ourself in many her actions and advices. A prince, whom we hold and behold as an excellent pattern and example to imitate in many her royal virtues and parts of government; and a prince whose days we could have wished to have been prolonged; we reporting ourselves not only to the testimony of our royal heart, but to the judgment of all the world, whether there ever appeared in us any ambitious or impatient desire to prevent God's appointed time. Neither are we so partial to our own honour, but that we do in great part ascribe this our most peaceable and quiet entrance and coming to these our crowns, next under the blessing of Almighty God, and our undoubted right, to the fruit of her majesty's peaceable and quiet government, accustoming the people to all loyalty and obedience. As for that which concerneth ourselves, we would have all our loving subjects know, that we do not take so much glad-

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ness and contentment in the devolving of these kingdoms, unto our royal person, for any addition or increase of glory, power, or riches, as in this, that it is so manifest an evidence unto us, especially the manner of it considered, that we stand, though unworthy, in God's favour, who hath put more means into our hands to reward our friends and servants, and to pardon and obliterate injuries, and to comfort and relieve the hearts and estates of our people and loving subjects, and chiefly to advance the holy religion and Church of Almighty God, and to deserve well of the Christian commonwealth. And more especially we cannot but gratulate and rejoice in this one point, that it hath pleased God to make us the instrument, and, as it were, the corner-stone, to unite these two mighty and warlike nations of England and Scotland into one kingdom. For although these two nations are situate upon the continent of one island, and are undivided either by seas or mountains, or by diversity of language; and although our neighbour kingdoms of Spain and France have already had the happiness to be re-united in the several members of those kingdoms formerly disjoined: yet in this island it appeareth not in the records of any true history, no nor scarcely in the conceit of any fabulous narration or tradition, that this whole island of Great Britain was ever united under one sovereign prince before this day. Which as we cannot but take as a singular honour and favour of God unto ourselves; so we may conceive good hope that the kingdoms of Christendom stand-

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ing distributed and counterpoised, as by this last union they now are, it will be a foundation of the universal peace of all Christian princes; and that now the strife that shall remain between them, shall be but an emulation who shall govern best, and most to the weal and good of his people.

Another great cause of our just rejoicing is, the assured hope that we conceive, that whereas our kingdom of Ireland hath been so long time torn and afflicted with the miseries of wars, the making and prosecuting of which wars hath cost such an infinite deal of blood and treasure of our realm of England to be spilt and consumed thereupon; we shall be able, through God's favour and assistance, to put a speedy and an honourable end to those wars. And it is our princely design and full purpose and resolution, not only to reduce that nation from their rebellion and revolt, but also to reclaim them from their barbarous manners to justice and the fear of God; and to populate, plant, and make civil all the provinces in that kingdom: which also being an action that not any of our noble progenitors, kings of England, hath ever had the happiness throughly to prosecute and accomplish, we take so much to heart, as we are persuaded it is one of the chief causes, for the which God hath brought us to the imperial crown of these kingdoms.

Further, we cannot but take great comfort in the state and correspondence which we now stand in of peace and unity with all Christian princes, and otherwise, of quietness and obedience of our own people at

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home: whereby we shall not need to expose that our kingdom of England to any quarrel or war, but rather have occasion to preserve them in peace and tranquillity, and openness of trade with all foreign nations.

Lastly and principally, we cannot but take unspeakable comfort in the great and wonderful consent and unity, joy and alacrity, wherewith our loving subjects of our kingdom of England have received and acknowledged us their natural and lawful king and governor, according to our most clear and undoubted right, in so quiet and settled manner, as, if we had been long ago declared and established successor, and had taken all men's oaths and homages, greater and more perfect unity and readiness could not have been. For considering with ourselves, that notwithstanding difference of religion, or any other faction, and notwithstanding our absence so far off, and notwithstanding the sparing and reserved communicating of one another's minds; yet all our loving subjects met in one thought and voice, without any the least disturbance or interruption, yea, hesitation or doubtfulness, or any shew thereof; we cannot but acknowledge it is a great work of God, who hath an immediate and extraordinary direction in the disposing of kingdoms and flows of people's hearts.

Wherefore, after our most humble and devout thanks to Almighty God, by whom kings reign, who hath established us king and governor of these kingdoms; we return our hearty and affectionate thanks unto the lords spiritual and temporal, the knights and gentlemen, the cities and towns, and generally unto

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our commons, and all estates and degrees of that our kingdom of England, for their so acceptable first-fruits of their obedience and loyalties offered and performed in our absence; much commending the great wisdom, courage, and watchfulness used by the peers of that our kingdom, according to the nobility of their bloods and lineages, many of them mingled with the blood royal; and therefore in nature affectionate to their rightful king; and likewise of the counsellors of the late queen, according to their gravity and oath, and the spirit of their good mistress, now a glorious saint in heaven, in carrying and ordering our affairs with that fidelity, moderation, and consent, which in them hath well appeared: and also the great readiness, concord, and cheerfulness in the principal knights and gentlemen of several counties, with the head officers of great cities, corporations, and towns: and do take knowledge by name of the readiness and good zeal of that our chiefest and most famous city, the city of London, the chamber of that our kingdom: assuring them, that we will be unto that city, by all means of confirming and increasing their happy and wealthy estate, not only a just and gracious sovereign lord and king, but a special and bountiful patron and benefactor.

And we on our part, as well in remuneration of all their loyal and loving affections, as in discharge of our princely office, do promise and assure them, that as all manner of estates have concurred and consented in their duty and zeal towards us, so it shall be our continual care and resolution to preserve and main-

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tain every several estate in a happy and flourishing condition, without confusion or over-growing of any one to the prejudice, discontentment, or discouragement of the rest: and generally in all estates we hope God will strengthen and assist us, not only to extirpate all gross and notorious abuses, and corruptions, of simonies, briberies, extortions, exactions, oppressions, vexations, burthensome payments, and overcharges, and the like; but further to extend our princely care to the supply of the very neglects and omissions of any thing that may tend to the good of our people. So that every place and service that is fit for the honour or good of the commonwealth shall be filled, and no man's virtue left idle, unimployed, or unrewarded; and every good ordinance and constitution, for the amendment of the estate and times, be revived and put in execution.

In the mean time, minding by God's leave, all delay set apart, to comfort and secure our loving subjects in our kingdom of England by our personal presence there, we require all our loving subjects joyfully to expect the same: and yet so, as we signify our will and pleasure to be, that all such ceremonies and preparations as shall be made and used to do us honour, or to express gratulation, be rather comely and orderly, than sumptuous and glorious; and for the expressing of magnificence, that it be rather employed and bestowed upon the funeral of the late queen, to whose memory, we are of opinion, too much honour cannot be done or performed.

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A DRAUGHT OF A PROCLAMATION TOUCHING HIS MAJESTY'S STILE.

2DO JACOBI. [PREPARED, NOT USED.]

As it is a manifest token, or rather a substantial effect, of the wrath and indignation of God, when kingdoms are rent and divided, which have formerly been entire and united under one monarch and governor; so, on the contrary part, when it shall please the Almighty, by whom kings reign as his deputies and lieutenants, to enlarge his commissions of empire and sovereignty, and to commit those nations to one king to govern, which he hath formerly committed to several kings, it is an evident argument of his great favour both upon king and upon people; upon the king, inasmuch as he may with comfort conceive that he is one of those servants to whom it was said, "Thou hast been faithful in the less, I will make thee lord of more;" upon the people, because the greatness of kingdoms and dominions, especially not being scattered, but adjacent and compact, doth ever bring with it greater security from outward enemies, and greater freedom from inward burdens, unto both which people under petty and weak estates are more exposed; which so happy fruit of the union of kingdoms is chiefly to be understood, when such conjunction or augmentation is not wrought by conquest

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and violence, or by pact and submission, but by the law of nature and hereditary descent. For in conquest it is commonly seen, although the bulk and quantity of territory be increased, yet the strength of kingdoms is diminished, as well by the wasting of the forces of both parts in the conflict, as by the evil coherence of the nation conquering and conquered, the one being apt to be insolent, and the other discontent; and so both full of jealousies and discord. And where countries are annexed only by act of estates and submissions, such submissions are commonly grounded upon fear, which is no good author of continuance, besides the quarrels and revolts which do ensue upon conditional and articulate subjections: but when the lines of two kingdoms do meet in the person of one monarch, as in a true point or perfect angle; and that from marriage, which is the first conjunction in human society, there shall proceed one inheritor in blood to several kingdoms, whereby they are actually united and incorporate under one head; it is the work of God and nature, whereunto the works of force and policy cannot attain; and it is that which hath not in itself any manner of seeds of discord or disunion, other than such as envy and malignity shall sow, and which groundeth an union, not only indissoluble, but also most comfortable and happy amongst the people.

We therefore in all humbleness acknowledge, that it is the great and blessed work of Almighty God, that these two ancient and mighty realms of England and Scotland, which by nature have no

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true but an imaginary separation, being both situate and comprehended in one most famous and renowned island of Great-Britany, compassed by the ocean, without any mountains, seas, or other boundaries of nature, to make any partition, wall, or trench, between them, and being also exempted from the first curse of disunion, which was the confusion of tongues, and being people of a like constitution of mind and body, especially in warlike prowess and disposition: and yet nevertheless have in so many ages been disjoined under several kings and governors, are now at the last, by right inherent in the commixture of our blood, united in our person and generation; wherein it hath pleased God to anoint us with the oil of gladness and gratulation above our progenitors, kings of either nation. Neither can we sufficiently contemplate and behold the passages, degrees, and insinuations, whereby it hath pleased the eternal God, to whom all his works are from the beginning known and present, to open and prepare a way to this excellent work; having first ordained that both nations should be knit in one true and reformed religion, which is the perfectest band of all unity and union; and secondly, that there should precede so long a peace continued between the nations for so many years last past, whereby all seeds and sparks of ancient discord have been laid asleep, and grown to an obliteration and oblivion; and lastly, that ourselves, in the true measure of our affections, should have so just cause to embrace both nations with equal and indifferent love and inclination, inasmuch as our

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birth and the passing of the first part of our age hath been in the one nation, and our principal seat and mansion, and the passing of the latter part of our days is like to be in the other. Which our equal and upright holding of the balance between both nations, being the highest point of all others in our distributive justice, we give the world to know, that we are constantly resolved to preserve inviolate against all emulations and partialities, not making any difference at all between the subjects of either nation, in affection, honours, favours, gifts, employments, confidences, or the like; but only such as the true distinctions of the persons, being capable or not capable, fit or not fit, acquainted with affairs or not acquainted with affairs, needing our princely bounty or not needing the same, approved to us by our experience or not approved, meriting or not meriting, and the several degrees of these and the like conditions, shall in right reason tie us unto, without any manner of regard to the country in itself; to the end that they may well perceive, that in our mind and apprehension they are all one and the same nation: and that our heart is truly placed in the centre of government, from whence all lines to the circumference are equal and of one space and distance.

But for the further advancing and perfecting of this work, we have taken into our princely care and cogitations, what it is that may appertain to our own imperial power, right, and authority: and what requireth votes and assents of our parliaments or estates; and again, what may presently be done,

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and what must be left to further time, that our proceeding may be void of all inconvenience and informality; wherein by the example of Almighty God, who is accustomed to begin all his great works and designments by alterations or impositions of names, as the fittest means to imprint in the hearts of people a character and expectation of that which is to follow; we have thought good to withdraw and discontinue the divided names of England and Scotland out of our regal stile and title, and to use in place of them the common and contracted name of Great Britany: not upon any vain-glory, whereof, we persuade ourselves, our actions do sufficiently free us in the judgment of all the world; and if any such humour should reign in us, it were better satisfied by length of stile and enumeration of kingdoms: but only as a fit signification of that which is already done, and a significant prefiguration of that which we further intend. For as in giving names to natural persons, it is used to impose them in infancy, and not to stay till fulness of growth; so it seemed to us not unseasonable to bring in further use this name at the first, and to proceed to the more substantial points of the union after, as fast and as far as the common good of both the realms should permit, especially considering the name of Britany was no coined, or new-devised, or affected name at pleasure, but the true and ancient name which God and time hath imposed, extant, and received in histories, in cards, and in ordinary speech and writing, where the whole island is meant to be denominate; so as it

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is not accompanied with so much as any strangeness in common speech. And although we never doubted, neither ever heard that any other presumed to doubt, but that the form and tenor of our regal stile and title, and the delineation of the same, did only and wholly of mere right appertain to our supreme and absolute prerogative to express the same in such words or sort, as seemed good to our royal pleasure: yet because we were to have the advice and assent of our parliament concerning other points of the union, we were pleased our said parliament should, amongst the rest, take also the same into their consideration. But finding by the grave opinion of our judges, who are the interpreters of our laws, that, in case that alteration of stile, which seemed to us but verbal, should be established and enacted by parliament, it might involve, by implication and consequence, not only a more present alteration, but also a further innovation than we any ways intended; or at least might be subject to some colourable scruple of such a perilous construction: we rested well satisfied to respite the same, as to require it by act of parliament. But being still resolved and fixed that it may conduce towards this happy end of the better uniting of the nations, we have thought good by the advice of our council to take the same upon us by our proclamation, being a course safe and free from any of the perils or scruples aforesaid. And therefore we do by these presents publish, proclaim, and assume to ourselves from henceforth, according to our undoubted right, the stile and title

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of King of Great Britany, France, and Ireland, and otherwise as followeth in our stile formerly used. And we do hereby straitly charge and command our chancellor, and all such as have the custody of any of our seals; and all other our officers and subjects whatsoever, to whom it may in any wise appertain, that from henceforth in all commissions, patents, writs, processes, grants, records, instruments, impressions, sermons, and all other writings and speeches whatsoever, wherein our stile is used to be set forth or recited, that our said stile, as is before by these presents declared and prescribed, be only used, and no other. And because we do but now declare that which in truth was before, our will and pleasure is, that in the computation of our reign, as to all writings or instruments hereafter to be made, the same computation be taken and made, as if we had taken upon us the stile aforesaid immediately after the decease of our late dear sister. And we do notify to all our subjects, that if any person, of what degree or condition soever he be, shall impugn our said stile, or derogate and detract from the same by any arguments, speeches, words, or otherwise; we shall proceed against him, as against an offender against our crown and dignity, and a disturber of the quiet and peace of our kingdom, according to the utmost severity of our laws in that behalf. Nevertheless, our meaning is not, that where in any writ, pleading, or other record, writing, instrument of speech, it hath been used for mention to be made

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of England or the realm of England, or any other word or words derived from the same, and not of our whole and entire stile and title; that therein any alteration at all be used by pretext of this our proclamation, which we intend to take place only where our whole stile shall be recited, and not otherwise; and in the other cases the ancient form to be used and observed.

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Inquisitions touching the compounding of metals.

To make proof of the incorporation of iron with flint, or other stone. For if it can be incorporated without over-great charge, or other incommodity, the cheapness of the flint or stone doth make the compound stuff profitable for divers uses. The doubts may be three in number.

First, Whether they will incorporate at all, otherwise than to a body that will not hold well together, but become brittle and uneven?

Secondly, Although it should incorporate well, yet whether the stuff will not be so stubborn as it will not work well with a hammer, whereby the charge in working will overthrow the cheapness of the material?

Thirdly, Whether they will incorporate, except the iron and stone be first calcined into powder? And if not, whether the charge of the calcination will not eat out the cheapness of the material?

The uses are most probable to be; first for the implements of the kitchen; as spits, ranges, cobirons, pots, &c. then for the wars, as ordnance, portcullises, grates, chains, &c.

Note; the finer works of iron are not so probable to be served with such a stuff; as locks, clocks,

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small chains, etc. because the stuff is not like to be tough enough.

For the better use, in comparison of iron, it is like the stuff will be far lighter: for the weight of iron to flint is double and a third part; and, secondly, it is like to rust not so easily, but to be more clean.

The ways of trial are two: first, by the iron and stone of themselves, wherein it must be inquired, what are the stones that do easiliest melt. Secondly, with an additament, wherein brimstone is approved to help to the melting of iron or steel. But then it must be considered, whether the charge of the additament will not destroy the profit.

It must be known also, what proportion of the stone the iron will receive to incorporate well with it, and that with once melting; for if either the proportion be too small, or that it cannot be received but piece-meal by several meltings, the work cannot be of value.

To make proof of the incorporating of iron and brass. For the cheapness of the iron in comparison of the brass, if the uses may be served, doth promise profit. The doubt will be touching their incorporating; for that it is approved, that iron will not incorporate, neither with brass nor other metals, of itself, by simple fire: so as the inquiry must be upon the calcination, and the additament, and the charge of them.

The uses will be for such things as are now made of brass, and might be as well served by the com-

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pound stuff; wherein the doubts will be chiefly of the toughness, and of the beauty.

First, therefore, if brass ordnance could be made of the compound stuff, in respect of the cheapness of the iron, it would be of great use.

The vantage which brass ordnance hath over iron, is chiefly, as I suppose, because it will hold the blow, though it be driven far thinner than the iron can be; whereby it saveth both in the quantity of the material, and in the charge and commodity of mounting and carriage, in regard, by reason of the thinness, it beareth much less weight: there may be also somewhat in being not so easily overheated.

Secondly, for the beauty. Those things wherein the beauty or lustre are esteemed, are andirons, and all manner of images, and statues, and columns, and tombs, and the like. So as the doubt will be double for the beauty; the one, whether the colour will please so well, because it will not be so like gold as brass? The other, whether it will polish so well? Wherein for the latter it is probable it will; for steel glosses are more resplendent than the like plates of brass would be; and so is the glittering of a blade. And besides, I take it, andiron brass, which they call white brass, hath some mixture of tin to help the lustre. And for the golden colour, it may be by some small mixture of orpiment, such as they use to brass in the yellow alchemy; it will easily recover that which the iron loseth. Of this the eye must be the judge upon proof made.

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But now for pans, pots, curfews, counters, and the like, the beauty will not be so much respected, so as the compound stuff is like to pass.

For the better use of the compound stuff, it will be sweeter and cleaner than brass alone, which yieldeth a smell or soiliness; and therefore may be better for the vessels of the kitchen and brewing. It will also be harder than brass, where hardness may be required.

For the trial, the doubts will be two: first; the over-weight of brass towards iron, which will make iron float on the top in the melting. This perhaps will be holpen with the calaminar stone, which consenteth so well with brass, and, as I take it, is lighter than iron. The other doubt will be the stiffness and dryness of iron to melt; which must be holpen either by moistening the iron, or opening it. For the first, perhaps some mixture of lead will help. Which is as much more liquid than brass, as iron is less liquid. The opening may be holpen by some mixture of sulphur: so as the trials would be with brass, iron, calaminar stone, and sulphur; and then again with the same composition, and an addition of some lead; and in all this the charge must be considered, whether it eat not out the profit of the cheapness of iron?

There be two proofs to be made of incorporation of metals for magnificence and delicacy. The one for the eye, and the other for the ear. Statue-metal, and bell-metal, and trumpet-metal, and string-metal; in all these, though the mixture of brass or

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copper should be dearer than the brass itself, yet the pleasure will advance the price to profit.

First therefore for statue-metal, see Pliny's mixtures, which are almost forgotten, and consider the charge.

Try likewise the mixture of tin in large proportion with copper, and observe the colour and beauty, it being polished. But chiefly let proof be made of the incorporating of copper or brass with glass-metal, for that is cheap, and is like to add a great glory and shining.

For bell-metal. First, it is to be known what is the composition which is now in use. Secondly, it is probable that it is the dryness of the metal that doth help the clearness of the sound, and the moistness that dulleth it; and therefore the mixtures that are probable, are steel, tin, glass-metal.

For string-metal, or trumpet-metal, it is the same reason; save that glass-metal may not be used, because it will make it too brittle; and trial may be made with mixture of silver, it being but a delicacy, with iron or brass.

To make proof of the incorporation of silver and tin in equal quantity, or with two parts silver and one part tin, and to observe whether it be of equal beauty and lustre with pure silver; and also whether it yield no soiliness more than silver? And again, whether it will endure the ordinary fire which belongeth to chafing-dishes, posnets, and such other silver vessels? And if it do not endure the fire, yet whether by some mixture of iron it may not be made

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more fixt? For if it be in beauty and all the uses aforesaid equal to silver, it were a thing of singular profit to the state, and to all particular persons, to change silver plate or vessel into the compound stuff, being a kind of silver electre, and to turn the rest into coin. It may be also questioned, whether the compound stuff will receive gilding as well as silver, and with equal lustre? It is to be noted, that the common allay of silver coin is brass, which doth discolour more, and is not so neat as tin.

The drownings of metals within other metals, in such sort as they can never rise again, is a thing of great profit. For if a quantity of silver can be so buried in gold, as it will never be reduced again, neither by fire, nor parting waters, nor otherways: and also that it serves all uses as well as pure gold, it is in effect all one as if so much silver were turned into gold; only the weight will discover it; yet that taketh off but half of the profit; for gold is not fully double weight to silver, but gold is twelve times price to silver.

The burial must be by one of these two ways, either by the smallness of the proportion, as perhaps fifty to one, which will be but six-pence gains in fifty shillings; or it must be holpen by somewhat which may fix the silver, never to be restored or vapoured away, when it is incorporated into such a mass of gold; for the less quantity is ever the harder to sever: and for this purpose iron is the likest, or coppel stuff, upon which the fire hath no power of consumption.

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The making of gold seemeth a thing scarcely possible; because gold is the heaviest of metals, and to add matter is impossible: and again, to drive metals into a narrower room than their natural extent beareth, is a condensation hardly to be expected. But to make silver seemeth more easy, because both quicksilver and lead are weightier than silver; so as there needeth only fixing, and not condensing. The degree unto this that is already known, is infusing of quicksilver in a parchment, or otherwise, in the midst of molten lead when it cooleth; for this stupifieth the quicksilver that it runneth no more. This trial is to be advanced three ways. First, by iterating the melting of the lead, to see whether it will not make the quicksilver harder and harder. Secondly, to put realgar hot into the midst of the quicksilver, whereby it may be condensed, as well from within as without. Thirdly, to try it in the midst of molten iron, or molten steel, which is a body more likely to fix the quicksilver than lead. It may be also tried, by incorporating powder of steel, or coppel dust, by pouncing, into the quicksilver, and so to proceed to the stupifying.

Upon glass four things would be put in proof. The first, means to make the glass more crystalline. The second, to make it more strong for falls, and for fire, though it come not to the degree to be malleable. The third, to make it coloured by tinctures, comparable to or exceeding precious stones. The fourth, to make a compound body of glass and galletyle; that is, to have the colour milky like a

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chalcedon, being a stuff between a porcelane and a glass.

For the first, it is good first to know exactly the several materials whereof the glass in use is made; window-glass, Normandy and Burgundy, ale-house glass, English drinking-glass: and then thereupon to consider what the reason is of the coarseness or clearness; and from thence to rise to a consideration how to make some additaments to the coarser materials, to raise them to the whiteness and crystalline splendor of the finest.

For the second, we see pebbles, and some other stones, will cut as fine as crystal, which if they will melt, may be a mixture for glass, and may make it more tough and more crystalline. Besides, we see metals will vitrify; and perhaps some portion of the glass of metal vitrified, mixed in the pot of ordinary glass-metal, will make the whole mass more tough.

For the third, it were good to have of coloured window-glass, such as is coloured in the pot, and not by colours———

It is to be known of what stuff galletyle is made, and how the colours in it are varied; and thereupon to consider how to make the mixture of glass-metal and them, whereof I have seen the example.

Inquire what be the stones that do easiliest melt. Of them take half a pound, and of iron a pound and half, and an ounce of brimstone, and see whether they will incorporate, being whole, with a strong fire. If not, try the same quantities calcined: and

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if they will incorporate, make a plate of them, and burnish it as they do iron.

Take a pound and a half of brass, and half a pound of iron; two ounces of the calaminar stone, an ounce and a half of brimstone, an ounce of lead; calcine them, and see what body they make; and if they incorporate, make a plate of it burnished.

Take of copper an ounce and a half, of tin an ounce, and melt them together, and make a plate of them burnished.

Take of copper an ounce and a half, of tin an ounce, of glass-metal half an ounce; stir them well in the boiling, and if they incorporate, make a plate of them burnished.

Take of copper a pound and a half, tin four ounces, brass two ounces; make a plate of them burnished.

Take of silver two ounces, tin half an ounce; make a little say-cup of it, and burnish it.

To inquire of the materials of every of the kind of glasses, coarser and finer, and of the proportions.

Take an equal quantity of glass-metal, of stone calcined, and bring a pattern.

Take an ounce of vitrified metal, and a pound of ordinary glass-metal, and see whether they will incorporate, and bring a pattern.

Bring examples of all coloured glasses, and learn the ingredients whereby they are coloured.

Inquire of the substance of galletyle.

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ARTICLES OF QUESTIONS TOUCHING MINERALS. THE LORD BACON'S QUESTIONS, WITH DR. MEVEREL'S SOLUTIONS.

Concerning the compounding, incorporating, or union of metals or minerals. Which subject is the first letter of his Lordship's Alphabet.

With what metals gold will incorporate by simple colliquefaction, and with what not? And in what quantity it will incorporate; and what kind of body the compound makes?

Gold with silver, which was the ancient "electrum:" gold with quicksilver: gold with lead: gold with copper: gold with brass: gold with iron: gold with tin.

So likewise of silver: silver with quicksilver: silver with lead: silver with copper: silver with brass: silver with iron: "Plinius secund. lib. xxxiii. 9. Miscuit denario triumvir Antonius ferrum," silver with tin.

So likewise of quicksilver: quicksilver with lead: quicksilver with copper: quicksilver with brass: quicksilver with iron: quicksilver with tin.

So of lead: lead with copper: lead with brass: lead with iron: lead with tin. "Plin. xxxiv. 9."

So of copper: copper with brass: copper with iron: copper with tin.

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So of brass: brass with iron: brass with tin.

So of iron: iron with tin.

What be the compound metals that are common and known? And what are the proportions of their mixtures? As,

Latten of brass, and the calaminar stone.

Pewter of tin and lead.

Bell-metal of etc. and the counterfeit plate, which they call alchemy.

The decomposites of three metals or more, are too long to inquire of, except there be some compositions of them already observed.

It is also to be observed, whether any two metals, which will not mingle of themselves, will mingle with the help of another; and what.

What compounds will be made of metal with stone and other fossils; as latten is made with brass and the calaminar stone; as all the metals incorporate with vitriol; all with iron powdered; all with flint, etc.

Some few of these would be inquired of, to disclose the nature of the rest.

Whether metals or other fossils will incorporate with molten glass, and what body it makes?

The quantity in the mixture would be well considered; for some small quantity perhaps will incorporate, as in the allays of gold and silver coin.

Upon the compound body, three things are chiefly to be observed: the colour; the fragility or pliantness; the volatility or fixation, compared with the simple bodies.

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For present use or profit, this is the rule: consider the price of the two simple bodies; consider again the dignity of the one above the other in use; then see if you can make a compound, that will save more in price, than it will lose in dignity of the use.

As for example; consider the price of brass ordnance; consider again the price of iron ordnance, and then consider wherein the brass ordnance doth excel the iron ordnance in use; then if you can make a compound of brass and iron that will be near as good in use, and much cheaper in price, then there is profit both to the private and the commonwealth. So of gold and silver, the price is double of twelve: the dignity of gold above silver is not much, the splendour is alike, and more pleasing to some eyes, as in cloth of silver, silver rapiers, etc. The main dignity is, that gold bears the fire, which silver doth not: but that is an excellency in nature, but it is nothing at all in use; for any dignity in use I know none, but that silvering will sully and canker more than gilding; which if it might be corrected with a little mixture of gold, there is profit: and I do somewhat marvel that the latter ages have lost the ancient "electrum," which was a mixture of silver with gold: whereof I conceive there may be much use, both in coin, plate, and gilding.

It is to be noted, that there is in the version of metals impossibility, or at least great difficulty, as in making of gold, silver, copper. On the other side, in the adulterating or counterfeiting of metals, there is deceit and villany. But it should seem there

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is a middle way, and that is by new compounds, if the ways of incorporating were well known.

What incorporation or imbibition metals will receive from vegetables, without being dissolved in their substance: as when the armourers make their steel more tough and pliant, by aspersion of water or juice of herbs; when gold being grown somewhat churlish by recovering, is made more pliant by throwing in shreds of tanned leather, or by leather oiled.

Note, that in these and the like shews of imbibition, it were good to try by the weights, whether the weight be increased, or no; for if it be not, it is to be doubted that there is no imbibition of substance, but only that the application of that other body doth dispose and invite the metal to another posture of parts, than of itself it would have taken.

After the incorporation of metals by simple colliquefaction, for the better discovery of the nature and consents and dissents of metals, it would be likewise tried by incorporating of their dissolutions. What metals being dissolved in strong waters will incorporate well together, and what not? Which is to be inquired particularly, as it was in colliquefactions.

There is to be observed in those dissolutions which will not easily incorporate, what the effects are: as the bullition; the precipitation to the bottom; the ejaculation towards the top; the suspension in the midst; and the like.

Note, that the dissents of the menstrual or strong

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waters may hinder the incorporation, as well as the dissents of the metals themselves; therefore where the "menstrua" are the same, and yet the incorporation followeth not, you may conclude the dissent is in the metals; but where the "menstrua" are several, not so certain.

Dr. Meverel's answers to the foregoing questions, concerning the compounding, incorporating, or union of metals and minerals.

Gold will incorporate with silver in any proportion. "Plin. lib. xxxiii. cap. 4. Omni auro inest argentum vario pondere; alibi dena, alibi nona, alibi octava parte—Ubicunque quinta argenti portio invenitur, electrum vocatur." The body remains fixt, solid, and coloured, according to the proportion of the two metals.

Gold with quicksilver easily mixeth, but the product is imperfectly fixed; and so are all other metals incorporate with mercury.

Gold incorporates with lead in any proportion.

Gold incorporates with copper in any proportion, the common allay.

Gold incorporates with brass in any proportion. And what is said of copper is true of brass, in the union of other metals.

Gold will not incorporate with iron.

Gold incorporates with tin, the ancient allay, Isa. I. 25.

What was said of gold and quicksilver, may be said of quicksilver and the rest of metals.

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Silver with lead in any proportion.

Silver incorporates with copper. Pliny mentions such a mixture for "triumphales statuæ, lib. xxxiii. 9. Miscentur argento, tertia pars æris Cyprii tenuissimi, quod coronarium vocant, et sulphuris vivi quantum argenti." The same is true of brass.

Silver incorporates not with iron. Wherefore I wonder at that which Pliny hath, "lib. xxxiii. 9. Miscuit denario triumvir Antonius ferrum." And what is said of this is true in the rest; for iron incorporateth with none of them.

Silver mixes with tin.

Lead incorporates with copper. Such a mixture was the pot-metal whereof Pliny speaks, "lib. xxxiv. 9. Ternis aut quaternis libris plumbi argentarii in centenas æris additis."

Lead incorporates with tin. The mixture of these two in equal proportions, is that which was anciently called "plumbum argentarium, Plin. lib. xxxiv. 17."

Copper incorporates with tin. Of such a mixture were the mirrors of the Romans. "Plin. Atque ut omnia de speculis peragantur hoc loco, optima apud majores erant Brundusina, stanno et ære mistis. Lib. xxxiii. 9."

Compound metals now in use.

1. Fine tin. The mixture is thus: pure tin a thousand pounds, temper fifty pounds, glass of tin three pounds.

2. Coarse pewter is made of fine tin and lead.

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Temper is thus made: the dross of pure tin, four pounds and a half; copper, half a pound.

3. Brass is made of copper and "calaminaris."

4. Bell-metal. Copper, a thousand pounds; tin, from three hundred to two hundred pounds; brass, a hundred and fifty pounds.

5. Pot-metal, copper and lead.

6. White alchemy is made of pan-brass one pound, and "arsenicum" three ounces.

7. Red alchemy is made of copper and auripigment.

There be divers imperfect minerals, which will incorporate with the metals: being indeed metals inwardly, but clothed with earth and stones: as "pyritis, calaminaris, misy, chalcitis, sory, vitriolum."

Metals incorporate not with glass, except they be brought into the form of glass.

Metals dissolved. The dissolution of gold and silver disagree, so that in their mixture there is great ebullition, darkness, and in the end a precipitation of a black powder.

The mixture of gold and mercury agree.

Gold agrees with iron. In a word, the dissolution of mercury and iron agree with all the rest.

Silver and copper disagree, and so do silver and lead. Silver and tin agree.

The second letter of the cross-row, touching the separation of metals and minerals.

SEPARATION is of three sorts; the first is, the

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separating of the pure metal from the ore or dross, which we call refining. The second is, the drawing one metal or mineral out of another, which we call extracting. The third is, the separating of any metal into its original or "materia prima," or element, or call them what you will; which work we will call principiation.

1. For refining, we are to inquire of it according to the several metals; as gold, silver, etc. Incidentally we are to inquire of the first stone, or ore, or spar, or marcasite of metals severally, and what kind of bodies they are, and of the degrees of richness. Also we are to inquire of the means of separating, whether by fire, parting waters, or otherwise. Also for the manner of refining, you are to see how you can multiply the heat, or hasten the opening, and so save the charge in the fining.

The means of this in three manners; that is to say, in the blast of the fire; in the manner of the furnace, to multiply heat by union and reflexion; and by some additament, or medicines which will help the bodies to open them the sooner.

Note, the quickning of the blast, and the multiplying of the heat in the furnace, may be the same for all metals; but the additaments must be several, according to the nature of the metals. Note again, that if you think that multiplying of the additaments in the same proportion that you multiply the ore, the work will follow, you may be deceived: for quantity in the passive will add more resistance, than the same quantity in the active will add force.

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2. For extracting, you are to inquire what metals contain others, and likewise what not; as lead, silver; copper, silver, etc.

Note, although the charge of extraction should exceed the worth, yet that is not the matter: for at least it will discover nature and possibility, the other may be thought on afterwards.

We are likewise to inquire, what the differences are of those metals which contain more or less other metals, and how that agrees with the poorness or richness of the metals or ore in themselves. As the lead that contains most silver is accounted to be more brittle, and yet otherwise poorer in itself.

3. For principiation, I cannot affirm whether there be any such thing or not; and I think the chemists make too much ado about it: but howsoever it be, be it solution or extraction, or a kind of conversion by the fire; it is diligently to be inquired what salts, sulphur, vitriol, mercury, or the like simple bodies are to be found in the several metals, and in what quantity.

Dr. Meverel's answers to the foregoing questions, touching the separations of metals and minerals.

1. For the means of separating. After that the ore is washed, or cleansed from the earth, there is nothing simply necessary, save only a wind furnace well framed, narrow above and at the hearth, in shape oval, sufficiently fed with charcoal and ore, in convenient proportions.

For additions in this first separation, I have ob-

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served none; the dross the mineral brings being sufficient. The refiners of iron observe, that that ironstone is hardest to melt which is fullest of metal, and that easiest which hath most dross. But in lead and tin the contrary is noted. Yet in melting of metals, when they have been calcined formerly by fire, or strong waters, there is good use of additaments, as of borax, tartar, armoniac, and salt-petre.

2. In extracting of metals. Note, that lead and tin contain silver. Lead and silver contain gold. Iron contains brass. Silver is best separated from lead by the test. So gold from silver. Yet the best way for that is "aqua regia."

3. For principiation. I can truly and boldly affirm, that there are no such principles as sal, sulphur, and mercury, which can be separated from any perfect metals. For every part so separated, may easily be reduced into perfect metal without substitution of that, or those principles which chemists imagine to be wanting. As suppose you take the salt of lead; this salt, or as some name it, sulphur, may be turned into perfect lead, by melting it with the like quantity of lead which contains principles only for itself.

I acknowledge that there is quicksilver and brimstone found in the imperfect minerals: but those are nature's remote materials, and not the chemist's principles. As if you dissolve antimony by "aqua regia," there will be real brimstone swimming upon the water: as appears by the colour of the fire when it is burnt, and by the smell.

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The third letter of the cross-row, touching the variation of metals into several shapes, bodies, or natures, the particulars whereof follow.

TINCTURE: turning to rust: calcination; sublimation: precipitation: amalgamatizing, or turning into a soft body: vitrification: opening or dissolving into liquor: sproutings, or branchings, or arborescents: induration and mollification: making tough or brittle: volatility and fixation: transmutation, or version.

For tincture: it is to be inquired how metal may be tinged through and through, and with what, and into what colours; as tinging silver yellow, tinging copper white, and tinging red, green, blue; especially with keeping the lustre.

Item, tincture of glasses.

Item, tincture of marble, flint, or other stone.

For turning into rust, two things are chiefly to be inquired; by what corrosives it is done, and into what colours it turns; as lead into white, which they call "ceruss;" iron into yellow, which they call "crocus martis;" quicksilver into vermilion; brass into green, which they call verdegrease.

For calcination; how every metal is calcined, and into what kind of body, and what is the exquisitest way of calcination.

For sublimation; to inquire the manner of subliming, and what metals endure subliming, and what body the sublimate makes.

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For precipitation likewise; by what strong water every metal will precipitate, and with what additaments, and in what time, and into what body.

So for amalgama; what metals will endure it, what are the means to do it, and what is the manner of the body.

For vitrification likewise; what metals will endure it, what are the means to do it, into what colour it turns; and farther, where the whole metal is turned into glass, and where the metal doth but hang in the glassy parts; also what weight the vitrified body bears, compared with the crude body; also because vitrification is accounted a kind of death of metals, what vitrification will admit of turning back again, and what not.

For dissolution into liquor, we are to inquire what is the proper "menstruum" to dissolve any metal, and in the negative, what will touch upon the one and not upon the other, and what several "menstrua" will dissolve any metal, and which most exactly. "Item," the process or motion of the dissolution, the manner of rising, boiling, vapouring more violent, or more gentle, causing much heat or less. "Item," the quantity or charge that the strong water will bear, and then give over. "Item," the colour into which the liquor will turn. Above all, it is to be inquired, whether there be any "menstruum" to dissolve any metal that is not fretting, or corroding; and openeth the body by sympathy, and not by mordacity or violent penetration.

For sprouting or branching, though it be a thing

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but transitory, and a kind of toy or pleasure, yet there is a more serious use of it; for that it discovereth the delicate motions of spirits, when they put forth and cannot get forth, like unto that which is in vegetables.

For induration, or mollification; it is to be inquired what will make metals harder and harder, and what will make them softer and softer. And this inquiry tendeth to two ends: first, for use; as to make iron soft by the fire makes it malleable. Secondly, because induration is a degree towards fixation, and mollification towards volatility; and therefore the inquiry of them will give light towards the other.

For tough and brittle, they are much of the same kind, but yet worthy of an inquiry apart, especially to join hardness with toughness, as making glass malleable, etc. and making blades strong to resist and pierce, and yet not easy to break.

For volatility and fixation. It is a principal branch to be inquired: the utmost degree of fixation is that whereon no fire will work, nor strong water joined with fire, if there be any such fixation possible. The next is, when fire simply will not work without strong waters. The next is by the test. The next is when it will endure fire not blown, or such a strength of fire. The next is when it will not endure, but yet is malleable. The next is when it is not malleable, but yet is not fluent, but stupified. So of volatility, the utmost degree is when it will fly away without returning. The next is when it will fly up,

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but with ease return. The next is when it will fly upwards over the helm by a kind of exsufflation without vapouring. The next is when it will melt though not rise. The next is when it will soften though not melt. Of all these diligent inquiry is to be made in several metals, especially of the more extreme degrees.

For transmutation or version. If it be real and true, it is the farthest part of art, and would be well distinguished from extraction, from restitution, and from adulteration. I hear much of turning iron into copper; I hear also of the growth of lead in weight, which cannot be without a conversion of some body into lead: but whatsoever is of this kind, and well expressed, is diligently to be inquired and set down.

Dr. Meverel's answers to the foregoing questions, concerning the variation of metals and minerals.

1. For tinctures, there are none that I know, but that rich variety which springs from mixture of metals with metals, or imperfect minerals.

2. The imperfect metals are subject to rust, all of them except mercury, which is made into vermilion by solution, or calcination. The rest are rusted by any salt, sour, or acid water. Lead into a white body called cerussa. Iron into a pale red called ferrugo. Copper is turned into green, named ærugo, æs viride. Tin into white: but this is not in use, neither hath it obtained a name.

The Scriptures mention the rust of gold, but that is in regard of the allay.

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3. Calcination. All metals may be calcined by strong waters, or by admixtion of salt, sulphur, and mercury. The imperfect metals may be calcined by continuance of simple fire; iron thus calcined is called crocus martis.

And this is their best way. Gold and silver are best calcined by mercury. Their colour is grey. Lead calcined is very red. Copper dusky red.

4. Metals are sublimed by joining them with mercury or salts. As silver with mercury, gold with sal armoniac, mercury with vitriol.

5. Precipitation is, when any metal being dissolved into a strong water, is beaten down into a powder by salt water. The chiefest in this kind is oil of tartar.

6. Amalgamation is the joining or mixing of mercury with any other of the metals. The manner is this in gold, the rest are answerable: take six parts of mercury, make them hot in a crucible, and pour them to one part of gold made red hot in another crucible, stir these well together that they may incorporate; which done, cast the mass into cold water and wash it. This is called the amalgama of gold.

7. For vitrification. All the imperfect metals may be turned by strong fire into glass, except mercury; iron into green; lead into yellow; brass into blue; tin into pale yellow. For gold and silver, I have not known them vitrified, except joined with antimony. These glassy bodies may be reduced into the form of mineral bodies.

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8. Dissolution. All metals without exception may be dissolved.

(1.) Iron may be dissolved by any tart, salt, or vitriolated water; yea, by common water, if it be first calcined with sulphur. It dissolves in aqua fortis, with great ebullition and heat, into a red liquor, so red as blood.

(2.) Lead is fittest dissolved in vinegar, into a pale yellow, making the vinegar very sweet.

(3.) Tin is best dissolved with distilled salt water. It retains the colour of the menstruum.

(4.) Copper dissolves as iron doth, in the same liquor, into a blue.

(5.) Silver hath its proper menstruum, which is aqua fortis. The colour is green, with great heat and ebullition.

(6.) Gold is dissolved with aqua regia, into a yellow liquor, with little heat or ebullition.

(7.) Mercury is dissolved with much heat and boiling, into the same liquors which gold and silver are. It alters not the colour of the menstruum.

Note. Strong waters may be charged with half their weight of fixed metals, and equal of mercury; if the workman be skilful.

9. Sprouting. This is an accident of dissolution. For if the menstruum be overcharged, then within short time the metals will shoot into certain crystals.

10. For induration, or mollification, they depend upon the quantity of fixed mercury and sulphur. I

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have observed little of them, neither of toughness nor brittleness.

11. The degrees of fixation and volatility I acknowledge, except the two utmost, which never were observed.

12. The question of transmutation is very doubtful. Wherefore I refer your honour to the fourth tome of "Theatrum Chymicum:" and there, to that tract which is intitled "Disquisitio Heliana;" where you shall find full satisfaction.

The fourth letter of the cross-row, touching restitution.

First, therefore, it is to be inquired in the negative, what bodies will never return, either by their extreme fixings, as in some vitrifications, or by extreme volatility.

It is also to be inquired of the two means of reduction; and first by the fire, which is but by congregation of homogeneal parts.

The second is, by drawing them down by some body that hath consent with them. As iron draweth down copper in water; gold draweth quicksilver in vapour; whatsoever is of this kind, is very diligently to be inquired.

Also it is to be inquired what time, or age, will reduce without help of fire or body.

Also it is to be inquired what gives impediment to union or restitution, which is sometimes called mortification; as when quicksilver is mortified with turpentine, spittle, or butter.

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Lastly, it is to be inquired, how the metal restored, differeth in any thing from the metal rare: as whether it become not more churlish, altered in colour, or the like.

Dr. Meverel's answers touching the restitutions of metals and minerals.

Reduction is chiefly effected by fire, wherein if they stand and nele, the imperfect metals vapour away, and so do all manner of salts which separated them "in minimas partes" before.

Reduction is singularly holpen, by joining store of metal of the same nature with it in the melting.

Metals reduced are somewhat churlish, but not altered in colour.

THE LORD VERULAM'S INQUISITION

Concerning the versions, transmutations, multiplications, and effections of bodies.

Earth by fire is turned into brick, which is of the nature of a stone, and serveth for building, as stone doth: and the like of tile. Qu. the manner.

Naphtha, which was the bituminous mortar used in the walls of Babylon, grows to an intire and very hard matter like a stone.

In clay countries, where there is pebble and gravel, you shall find great stones, where you may see the pebbles or gravel, and between them a substance of stone as hard or harder than the pebble itself.

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There are some springs of water, wherein if you put wood, it will turn into the nature of stone: so as that within the water shall be stone, and that above the water continue wood.

The slime about the reins and bladder in man's body, turns into stone: and stone is likewise found often in the gall; and sometimes, though rarely, in "vena porta."

Query, what time the substance of earth in quarries asketh to be turned into stone?

Water, as it seems, turneth into crystal, as is seen in divers caves, where the crystal hangs "in stillicidiis."

Try wood, or the stalk of herbs, buried in quicksilver, whether it will not grow hard and stony.

They speak of a stone ingendered in a toad's head.

There was a gentleman, digging in his moat, found an egg turned into stone, the white and the yolk keeping their colour, and the shell glistering like a stone cut with corners.

Try some things put into the bottom of a well; as wood, or some soft substance: but let it not touch the water, because it may not putrify.

They speak, that the white of an egg, with lying long in the sun, will turn stone.

Mud in water turns into shells of fishes, as in horse-mussels, in fresh ponds, old and overgrown. And the substance is a wondrous fine substance, light and shining.

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A SPEECH TOUCHING THE RECOVERING OF DROWNED MINERAL WORKS.

Prepared for the parliament (as Mr. Bushel affirmed) by the Vtscount of St. Albans, then Lord High Chancellor of England.*

MY LORDS AND GENTLEMEN,

THE king, my royal master, was lately graciously pleased to move some discourse to me concerning Mr. Sutton's hospital, and such like worthy foundations of memorable piety: which humbly seconded by myself, drew his majesty into a serious consideration of the mineral treasures of his own territories, and the practical discoveries of them by way of my philosophical theory: which he then so well resented, that afterwards, upon a mature digestion of my whole design, he commanded me to let your lordships understand, how great an inclination he hath to further so hopeful a work, for the honour of his dominions, as the most probable means to relieve all the poor thereof, without any other stock or benevolence, than that which divine bounty should confer on their own industries and honest labours, in recovering all such drowned mineral works, as have been, or shall be therefore deserted.

And, my lords, all that is now desired of his majesty and your lordships, is no more than a gracious act of this present parliament to authorise them herein, adding a mercy to a munificence, which

* See Mr. B's extract, p. 18, 19.

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is, the persons of such strong and able petty-felons, who, in true penitence for their crimes, shall implore his majesty's mercy and permission to expiate their offences by their assiduous labours in so innocent and hopeful a work.

For by this unchargeable way, my lords, have I proposed to erect the academical fabric of this island's Solomon's House, modelled in my new Atlantis. And I can hope, my lords, that my midnight studies, to make our countries flourish and outvie European neighbours in mysterious and beneficent arts, have not so ingratefully affected your noble intellects, that you will delay or resist his majesty's desires, and my humble petition in this benevolent, yea, magnificent affair; since your honourable posterities may be enriched thereby, and my ends are only to make the world my heir, and the learned fathers of my Solomon's House, the successive and sworn trustees in the dispensation of this great service, for God's glory, my prince's magnificence, this parliament's honour, our country's general good, and the propagation of my own memory.

And I may assure your lordships, that all my proposals in order to this great architype, seemed so rational and feasible to my royal sovereign, our Christian Solomon, that I thereby prevailed with his majesty to call this honourable parliament, to confirm and impower me in my own way of mining, by an act of the same, after his majesty's more weighty affairs were considered in your wisdoms; both which he desires your lordships, and you gen-

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tlemen that are chosen as the patriots of your respective countries, to take speedy care of: which done, I shall not then doubt the happy issue of my undertakings in this design, whereby concealed treasures, which now seem utterly lost to mankind, shall be confined to so universal a piety, and brought into use by the industry of converted penitents, whose wretched carcases the impartial laws have, or shall dedicate, as untimely feasts, to the worms of the earth, in whose womb those deserted mineral riches must ever lie buried as lost abortments, unless those be made the active midwives to deliver them. For, my lords, I humbly conceive them to be the fittest of all men to effect this great work, for the ends and causes which I have before expressed.

All which, my lords, I humbly refer to your grave and solid judgments to conclude of, together with such other assistances to this frame, as your own oraculous wisdom shall intimate, for the magnifying our Creator in his inscrutable providence, and admirable works of nature.

Certain experiments made by the Lord BACON *about weight in air and water.*

A NEW sovereign of equal weight in the air to the piece in brass, overweigheth in the water nine grains: in three sovereigns the difference in the water is but twenty-four grains.

The same sovereign overweigheth an equal weight of lead, four grains in the water, in brass grains for gold: in three sovereigns about eleven grains.

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The same sovereign overweigheth an equal weight of stones in the air, at least sixty-five grains in the water: the grains being for the weight of gold in brass metal.

A glass filled with water weighing, in Troy weights, thirteen ounces and five drams, the glass and the water together weigheth severally, viz. the water nine ounces and a half, and the glass four ounces and a dram.

A bladder weighing two ounces seven drams and a half, a pebble laid upon the top of the bladder makes three ounces six drams and a half, the stone weigheth seven drams.

The bladder, as above, blown, and the same fallen, weigheth equal.

A sponge dry weigheth one ounce twenty-six grains: the same sponge being wet, weigheth fourteen ounces six drams and three quarters: the water weigheth in several eleven ounces one dram and a half, and the sponge three ounces and a half, and three quarters of a dram. First time.

The sponge and water together weigh fifteen ounces and seven drams: in several, the water weigheth eleven ounces and seven drams, and the sponge three ounces seven drams and a half. Second time.

Three sovereigns made equal to a weight in silver in the air, differ in the water.

For false weights, one beam long, the other thick.

The stick and thread weigh half a dram, and twenty grains, being laid in the balance.

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The stick tied to reach within half an inch of the end of the beam, and so much from the tongue, weigheth twenty-eight grains; the difference is twenty-two grains.

The same stick being tied to hang over the end of the beam an inch and a half, weigheth half a dram and twenty-four grains, exceeding the weight of the said stick in the balance by four grains.

The same stick being hanged down beneath the thread, as near the tongue as is possible, weigheth only eight grains.

Two weights of gold being made equal in the air, and weighing severally seven drams; the one balance being put into the water, and the other hanging in the air, the balance in the water weigheth only five drams and three grains, and abateth of the weight in the air, one dram and a half, and twenty-seven grains.

The same trial being made the second time, and more truly and exactly betwixt gold and gold, weighing severally, as above; and making a just and equal weight in the air, the one balance being put into the water the depth of five inches, and the other hanging in the air, the balance in the water weigheth only four drams, and fifty-five grains, and abateth of the weight in the air two drams and five grains.

The trial being made betwixt lead and lead, weighing severally seven drams in the air, the balance in the water weigheth only four drams and forty-one grains, and abateth of the weight in the air two drams and nineteen grains; the balance kept the same depth in the water as abovesaid.

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The trial being made betwixt silver and silver, weighing severally seven drams in the air, the balance in the water weigheth only four drams and twenty-five grains. So it abateth two drams and thirty-five grains; the same depth in the water observed.

In iron and iron, weighing severally each balance in the air seven drams, the balance in the water weigheth only four drams and eighteen grains; and abateth of the weight in the air two drams and forty-two grains; the depth observe as above.

In stone and stone, the same weight of seven drams equally in the air, the balance in the water weigheth only two drams and twenty-two grains; and abateth of the weight in the air four drams and thirty-eight grains; the depth as above.

In brass and brass, the same weight of seven drams in each balance, equal in the air, the balance in the water weigheth only four drams and twenty-two grains; and abateth in the water two drams and thirty-eight grains; the depth observed.

The two balances being weighed in air and water, the balance in the air over-weigheth the other in the water one dram and twenty-eight grains; the depth in the water as aforesaid.

It is a profitable experiment which sheweth the weights of several bodies in comparison with water. It is of use in lading of ships, and other bottoms, and may help to shew what burden in the several kinds they will bear.

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Certain sudden thoughts of the Lord BACON'S, *set down by him under the title of* EXPERIMENTS FOR PROFIT.

MUCK of leaves: muck of river, earth, and chalk: muck of earth closed, both for salt-petre and muck: setting of wheat and peas: mending of crops by steeping of seeds: making peas, cherries, and strawberries come early: strengthening of earth for often returns of radishes, parsnips, turnips, etc. making great roots of onions, radishes, and other esculent roots: sowing of seeds of trefoil: setting of woad: setting of tobacco, and taking away the rawns: grafting upon boughs of old trees: making of a hasty coppice: planting of osiers in wet grounds: making of candles to last long: building of chimnies, furnaces, and ovens, to give heat with less wood: fixing of logwood: other means to make yellow and green fixed: conserving of oranges, lemons, citrons, pomegranates, etc. all summer: recovering of pearl, coral, turcoise colour, by a conservatory of snow: sowing of fennel: brewing with hay, haws, trefoil, broom, hips, bramble-berries, woodbines, wild thyme, instead of hops, thistles: multiplying and dressing artichokes.

Certain experiments of the Lord BACON'S, *about the commixture of liquors only, not solids, without heat or agitation, but only by simple composition and settling.*

SPIRIT of wine mingled with common water, although it be much lighter than oil, yet so as if the first fall be broken, by means of a sop, or otherwise, it stayeth above; and if it be once mingled, it

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severeth not again, as oil doth. Tried with water coloured with saffron.

Spirit of wine mingled with common water hath a kind of clouding, and motion shewing no ready commixture. Tried with saffron.

A dram of gold dissolved in aqua regis, with a dram of copper in aqua fortis, commixed, gave a green colour, but no visible motion in the parts. Note, that the dissolution of the gold was, twelve parts water to one part body: and of the copper was, six parts water to one part body.

Oil of almonds commixed with spirit of wine severeth, and the spirit of wine remaineth on the top, and the oil in the bottom.

Gold dissolved, commixed with spirit of wine, a dram of each, doth commix, and no other apparent alteration.

Quicksilver dissolved with gold dissolved, a dram of each, doth turn to a mouldy liquor, black, and like smiths water.

Note, the dissolution of the gold was twelve parts water, ut supra, and one part metal: that of water was two parts, and one part metal.

Spirit of wine and quicksilver commixed, a dram of each, at the first shewed a white milky substance at the top, but soon after mingled.

Oil of vitriol commixed with oil of cloves, a dram of each, turneth into a red dark colour; and a substance thick almost like pitch, and upon the first motion gathereth an extreme heat, not to be endured by touch.

Dissolution of gold, and oil of vitriol commixed, a

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dram of each, gathereth a great heat at the first, and darkeneth the gold, and maketh a thick yellow.

Spirit of wine and oil of vitriol, a dram of each, hardly mingle; the oil of vitriol going to the bottom, and the spirit of wine lying above in a milky substance. It gathereth also a great heat, and a sweetness in the taste.

Oil of vitriol and dissolution of quicksilver, a dram of each, maketh an extreme strife, and casteth up a very gross fume, and after casteth down a white kind of curds, or sands; and on the top a slimish substance, and gathereth a great heat.

Oil of sulphur and oil of cloves commixed, a dram of each, turn into a thick and red-coloured substance; but no such heat as appeared in the commixture with the oil of vitriol.

Oil of petroleum and spirit of wine, a dram of each, intermingle otherwise than by agitation, as wine and water do; and the petroleum remaineth on the top.

Oil of vitriol and petroleum, a dram of each, turn into a mouldy substance, and gathereth some warmth; there residing a black cloud in the bottom, and a monstrous thick oil on the top.

Spirit of wine and red-wine vinegar, one ounce of each, at the first fall, one of them remaineth above, but by agitation they mingle.

Oil of vitriol and oil of almonds, one ounce of each, mingle not; but the oil of almonds remaineth above.

Spirit of wine and vinegar, an ounce of each, commixed, do mingle, without any apparent separation, which might be in respect of the colour.

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Dissolution of iron, and oil of vitriol, a dram of each, do first put a milky substance into the bottom, and after incorporate into a mouldy substance.

Spirit of wine commixed with milk, a third part spirit of wine, and two parts milk, coagulateth little, but mingleth; and the spirit swims not above.

Milk and oil of almonds mingled, in equal portions, do hardly incorporate, but the oil cometh above, the milk being poured in last; and the milk appeareth in some drops or bubbles.

Milk one ounce, oil of vitriol a scruple, doth coagulate; the milk at the bottom, where the vitriol goeth.

Dissolution of gum tragacanth, and oil of sweet almonds, do not commingle, the oil remaining on the top till they be stirred, and make the mucilage somewhat more liquid.

Dissolution of gum tragacanth one ounce and a half, with half an ounce of spirit of wine, being commixed by agitation, make the mucilage more thick.

The white of an egg with spirit of wine, doth bake the egg into clots, as if it began to poch.

One ounce of blood, one ounce of milk, do easily incorporate.

Spirit of wine doth curdle the blood.

One ounce of whey unclarified, one ounce of oil of vitriol, make no apparent alteration.

One ounce of blood, one ounce of oil of almonds, incorporate not, but the oil swims above.

Three quarters of an ounce of wax being dissolved upon the fire, and one ounce of oil of almonds put together and stirred, do not so incorporate, but

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that when it is cold the wax gathereth and swims upon the top of the oil.

One ounce of oil of almonds cast into an ounce of sugar seething, sever presently, the sugar shooting towards the bottom.

A catalogue of bodies attractive and not attractive, together with experimental observations about attraction.

These following bodies draw: amber, jet, diamond, sapphire, carbuncle, iris, the gem opale, amethyst, bristollina, crystal, clear glass, glass of antimony, divers flowers from mines, sulphur, mastic, hard sealing-wax, the harder rosin, arsenic.

These following bodies do not draw: smaragd, achates, corneolus, pearl, jaspis, chalcedonius, alabaster, porphyry, coral, marble, touchstone, hæmatites, or bloodstone; smyris, ivory, bones, ebontree, cedar, cypress, pitch, softer rosin, camphire, galbanum, ammoniac, storax, benzoin, loadstone, asphaltum.*

These bodies, gold, silver, brass, iron, draw not, though never so finely polished.

In winter, if the air be sharp and clear, sal gemmeum, roch allum, and lapis specularis, will draw.

These following bodies are apt to be drawn, if the mass of them be small: chaff, woods, leaves, stones, all metals leaved, and in the mine; earth, water, oil.

* The drawing of iron excepted.

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Grains of youth.

TAKE of nitre four grains, of ambergrease three grains, of orris-powder two grains, of white poppy-seed the fourth part of a grain, of saffron half a grain, with water of orange-flowers, and a little tragacanth; make them into small grains, four in number. To be taken at four a-clock, or going to bed.

Preserving ointments.

Take of deers suet one ounce, of myrrh six grains, of saffron five grains, of bay-salt twelve grains, of Canary wine, of two years old, a spoonful and a half. Spread it on the inside of your shirt, and let it dry, and then put it on.

A purge familiar for opening the liver.

Take rhubarb two drams, agaric trochiscat one dram and a half, steep them in claret wine burnt with mace; take of wormwood one dram, steep it with the rest, and make a mass of pills, with "syrup. acetos. simplex." But drink an opening broth before it, with succory, fennel, and smallage roots, and a little of an onion.

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Wine for the spirits.

Take gold perfectly refined three ounces, quench it six or seven times in good claret wine; add of nitre six grains for two draughts: add of saffron prepared three grains, of ambergrease four grains, pass it through an hippocras bag, wherein there is a dram of cinnamon gross beaten, or, to avoid the dimming of the colour, of ginger. Take two spoonsful of this to a draught of fresh claret wine.

The preparing of saffron.

Take six grains of saffron, steeped in half parts of wine and rose water, and a quarter part vinegar: then dry it in the sun.

Wine against adverse melancholy, preserving the senses and the reason.

Take the roots of buglos well scraped and cleansed from their inner pith, and cut them into small slices; steep them in wine of gold extinguished ut supra, and add of nitre three grains, and drink it ut supra, mixed with fresh wine: the roots must not continue steeped above a quarter of an hour; and they must be changed thrice.

Breakfast preservative against the gout and rheums.

To take once in the month at least, and for two days together, one grain of castorei in my ordinary broth.

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The preparation of garlick.

Take garlic four ounces, boil it upon a soft fire in claret wine, for half an hour. Take it out and steep it in vinegar; whereto add two drams of cloves, then take it forth, and keep it in a glass for use.

The artificial preparation of damask roses for smell.

Take roses, pull their leaves, then dry them in a clear day in the hot sun: then their smell will be as gone. Then cram them into an earthen bottle, very dry and sweet, and stop it very close; they will remain in smell and colour both fresher than those that are otherwise dried. Note, the first drying, and close keeping upon it, preventeth all putrefaction, and the second spirit cometh forth, made of the remaining moisture not dissipated.

A restorative drink.

Take of Indian maiz half a pound, grind it not too small, but to the fineness of ordinary meal, and then bolt and searce it, that all the husky part may be taken away. Take of eryngium roots three ounces, of dates as much, of enula two drams, of mace three drams, and brew them with ten shilling beer to the quantity of four gallons: and this do, either by decocting them in a pottle of wort, to be after mingled with the beer, being new tapped, or otherwise infuse it in the new beer, in a bag. Use this familiarly at meals.

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Against the waste of the body by heat.

Take sweet pomegranates, and strain them lightly, not pressing the kernel, into a glass; where put some little of the peel of a citron, and two or three cloves, and three grains of ambergrease, and a pretty deal of fine sugar. It is to be drunk every morning whilst pomegranates last.

Methusalem water. Against all asperity and torrefaction of inward parts, and all adustion of the blood, and generally against the dryness of age.

Take crevices very new, q. s. boil them well in claret wine, of them take only the shells, and rub them very clean, especially on the inside, that they may be thoroughly cleansed from the meat. Then wash them three or four times in fresh claret wine, heated: still changing the wine, till all the fish-taste be quite taken away. But in the wine wherein they are washed, steep some tops of green rosemary; then dry the pure shell thoroughly, and bring them to an exquisite powder. Of this powder take three drams. Take also pearl, and steep them in vinegar twelve hours, aud dry off the vinegar; of this powder also three drams. Then put the shell powder and pearl powder together, and add to them of ginger one scruple, and of white poppy-seed half a scruple, and steep them in spirit of wine, wherein six grains of saffron have been dissolved, seven hours. Then upon a gentle heat vapour away all the spirit of wine,

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and dry the powder against the sun without fire. Add to it of nitre one dram, of ambergrease one scruple and a half; and so keep this powder for use in a clean glass. Then take a pottle of milk, and slice in it of fresh cucumbers, the inner pith only, the rind being pared off, four ounces, and draw forth a water by distillation. Take of claret wine a pint, and quench gold in it four times.

Of the wine, and of the water of milk, take of each three ounces, of the powder one scruple, and drink it in the morning; stir up the powder when you drink, and walk upon it.

A catalogue of astringents, openers, and cordials, instrumental to health.

ASTRINGENTS.

Red rose, black-berry, myrtle, plantane, flower of pomegranate, mint, aloes well washed, myrobalanes, sloes, agrestia fraga, mastich, myrrh, saffron, leaves of rosemary, rhubarb received by infusion, cloves, service-berries, corna, wormwood, bole armeniac, sealed earth, cinquefoil, tincture of steel, sanguis draconis, coral, amber, quinces, spikenard, galls, alum, blood-stone, mummy, amomum, galangal, cypress, ivy, psyllum, housleek, sallow, mullein, vine, oak-leaves, lignum alöes, red sanders, mulberry, medlars, flowers of peach-trees, pomegranates, pears, palmule, pith of kernels, purslain, acacia, laudanum, tragacanth, thus olibani, comfrey, shepherd's purse, polygonium.

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Astringents, both hot and cold, which corroborate the parts, and which confirm and refresh such of them as are loose or languishing.

Rosemary, mint, especially with vinegar, cloves, cinnamon, cardamom, lign-aloes, rose, myrtle, red sanders, cotonea, red wine, chalybeat wine, five-finger grass, plantane, apples of cypress, berberries, fraga, service-berries, cornels, ribes, sour pears, rambesia.

Astringents styptic, which by their styptic virtue may stay fluxes.

Sloes, acacia, rind of pomegranates infused, at least three hours, the styptic virtue not coming forth in lesser time. Alum, galls, juice of sallow, syrup of unripe quinces, balaustia, the whites of eggs boiled hard in vinegar.

Astringents, which by their cold and earthy nature may stay the motion of the humours tending to a flux.

Sealed earth, sanguis draconis, coral, pearls, the shell of the fish dactylus.

Astringents, which by the thickness of their substance stuff as it were the thin humours, and thereby stay fluxes.

Rice, beans, millet, cauls, dry cheese, fresh goats milk.

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Astringents, which by virtue of their glutinous substance restrain a flux, and strengthen the looser parts.

KARABE,* mastich, spodium, hartshorn, frankincense, dried bulls pistle, gum tragacanth.

Astringents purgative, which, having by their purgative or expulsive power thrust out the humours, leave behind them astrictive virtue.

RHUBARB, especially that which is toasted against the fire: myrobalanes, tartar, tamarinds, an Indian fruit like green damascenes.

Astringents which do very much suck and dry up the humours, and thereby stay fluxes.

RUST of iron, crocus martis, ashes of spices.

Astringents, which, by their nature do dull the spirits, and lay asleep the expulsive virtue, and take away the acrimony of all humours.

LAUDANUM, mithridate, diascordium, diacodium.

Astringents, which, by cherishing the strength of the parts, do comfort and confirm their retentive power.

A stomacher of scarlet cloth: whelps, or young healthy boys, applied to the stomach: hippocratic wines, so they be made of austere materials.

* Perhaps he meant the fruit of Karobe.

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OPENERS.

Succory, endive, betony, liverwort, petroselinum smallage, asparagus, roots of grass, dodder, tamarisk, juncus odoratus, lacca, cupparus, wormwood, chamæpitys, fumaria, scurvy-grass, eringo, nettle, ireos, elder, hyssop, aristolochia, gentian, costus, fennel-root, maiden-hair, harts-tongue, daffodilly, asarum, sarsaparilla, sassafras, acorns, abretonum, aloes, agaric rhubarb infused, onions, garlic, bother, squilla, sow-bread, Indian nard, Celtic nard, bark of laurel-tree, bitter almonds, holy thistle, camomile, gun-powder, sows (millepedes) ammoniac, man's urine, rue, park leaves (vitex) centaury, lupines, chamædrys, costum, ammios, bistort, camphire, daucus seed, Indian balsam, scordium, sweet cane, galingal, agrimony.

CORDIALS.

Flowers of basil royal, flores caryophillati, flowers of bugloss and borage, rind of citron, orange flowers, rosemary and its flowers, saffron, musk, amber, folium, i. e. nardi folium, balm-gentle, pimpernel, gems, gold, generous wines, fragrant apples, rose, rosa moschata, cloves, lign-aloes, mace, cinnamon, nutmeg, cardamom, galingal, vinegar, kermes berry, herba moschata, betony, white sanders, camphire, flowers of heliotrope, penny royal, scordium, opium corrected, white pepper, nasturtium, white and red bean, castum dulce, dactylus, pine, fig, egg-shell, vinum malvaticum, ginger, kidneys, oisters, crevises, or river crabs, seed

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of nettle, oil of sweet almonds, sesaminum oleum, asparagus, bulbous roots, onions, garlic, eruca, daucus seed, eringo, siler montanus, the smell of musk, cynethi odor, caraway seed, flower of puls, aniseed, pellitory, anointing of the testicles with oil of elder in which pellitory hath been boiled, cloves with goats milk, olibanum.

An extract by the Lord BACON, *for his own use, out of the book Of the prolongation of life, together with some new advices in order to health.*

1. ONCE in the week, or at least in the fortnight, to take the water of mithridate distilled, with three parts to one, or strawberry-water to allay it; and some grains of nitre and saffron, in the morning between sleeps.

2. To continue my broth with nitre; but to interchange it every other two days, with the juice of pomegranates expressed, with a little cloves, and rind of citron.

3. To order the taking of the maceration* as followeth.

To add to the maceration six grains of cremor tartari, and as much enula.

To add to the oxymel some infusion of fennel-roots in the vinegar, and four grains of angelica-seed, and juice of lemons, a third part to the vinegar.

* Viz. of rhubarb infused into a draught of white wine and beer, mingled together for the space of half an hour, once in six or seven days. See the Lord Bacon's Life, by Dr. Rawley, towards the end.

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To take it not so immediately before supper, and to have the broth specially made with barley, rosemary, thyme, and cresses.

Sometimes to add to the maceration three grains of tartar, and two of enula, to cut the more heavy and viscous humours; lest rhubarb work only upon the lightest.

To take sometimes the oxymel before it, and sometimes the Spanish honey simple.

4. To take once in the month at least, and for two days together, a grain and a half of castor, in my broth, and breakfast.

5. A cooling clyster to be used once a month, after the working of the maceration is settled.

Take of barley-water, in which the roots of bugloss are boiled, three ounces, with two drams of red sanders, and two ounces of raisins of the sun, and one ounce of dactyles, and an ounce and a half of fat caricks; let it be strained, and add to it an ounce and a half of syrup of violets: let a clyster be made. Let this be taken, with veal, in the aforesaid decoction.

6. To take every morning the fume of lign-aloes, rosemary and bays dried, which I use; but once in a week to add a little tobacco, without otherwise taking it in a pipe.

7. To appoint every day an hour "ad affectus intentionales et sanos." Qu. de particulari.

8. To remember masticatories for the mouth.

9. And orange-flower water to be smelt to or snuffed up.

10. In the third hour after the sun is risen, to

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take in air from some high and open place, with a ventilation of rosæ moschatæ, and fresh violets; and to stir the earth, with infusion of wine and mint.

11. To use ale with a little enula campana, carduus, germander, sage, angelica-seed, cresses of a middle age, to beget a robust heat.

12. Mithridate thrice a year.

13. A bit of bread dipt in vino odorato, with syrup of dry roses, and a little amber, at going to bed.

14. Never to keep the body in the same posture above half an hour at a time.

15. Four precepts. To break off custom. To shake off spirits ill disposed. To meditate on youth. To do nothing against a man's genius.

16. Syrup of quinces for the mouth of the stomach. Inquire concerning other things useful in that kind.

17. To use once during supper time wine in which gold is quenched.

18. To use anointing in the morning lightly with oil of almonds, with salt and saffron, and a gentle rubbing.

19. Ale of the second infusion of the vine of oak.

20. Methusalem water, of pearls and shells of crabs, and a little chalk.

21. Ale of raisins, dactyles, potatoes, pistachios, honey, tragacanth, mastic.

22. Wine with swines flesh or harts flesh.

23. To drink the first cup at supper hot, and half an hour before supper something hot and aromatised.

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24. Chalybeates four times a year.

25. Pilulæ ex tribus, once in two months, but after the mass has been macerated in oil of almonds.

26. Heroic desires.

27. Bathing of the feet once in a month, with lye ex sale nigro, camomile, sweet marjoram, fennel, sage, and a little aqua vitæ.

28. To provide always an apt breakfast.

29. To beat the flesh before roasting of it.

30. Macerations in pickles.

31. Agitation of beer by ropes, or in wheel-barrows.

32. That diet is good which makes lean, and then renews. Consider of the ways to effect it.

MEDICAL RECEIPTS OF THE LORD BACON.

His Lordship's usual receipt for the Gout. To which he refers, Nat. Hist. Cent. I. *N.* 60.

1. *The poultis.*

Take of manchet about three ounces, the crumb only, thin cut; let it be boiled in milk till it grow to a pulp. Add in the end a dram and a half of the powder of red roses; of saffron ten grains; of oil of roses an ounce; let it be spread upon a linen cloth, and applied lukewarm, and continued for three hours space.

2. *The bath or fomentation.*

Take of sage leaves half a handful; of the root

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of hemlock sliced six drams; of briony roots half an ounce; of the leaves of red roses two pugils; let them be boiled in a pottle of water, wherein steel hath been quenched, till the liquor come to a quart. After the straining, put in half a handful of bay salt. Let it be used with scarlet cloth, or scarlet wool, dipped in the liquor hot, and so renewed seven times; all in the space of a quarter of an hour, or little more.

3. *The plaister.*

Take emplastrum diachalciteos, as much as is sufficient for the part you mean to cover. Let it be dissolved with oil of roses, in such a consistence as will stick; and spread upon a piece of holland, and applied.

His Lordship's broth and fomentation for the stone.

The broth.

Take one dram of eryngium roots, cleansed and sliced; and boil them together with a chicken. In the end, add of elder flowers, and marigold flowers together, one pugil; of angelica seed half a dram, of raisins of the sun stoned, fifteen; of rosemary, thyme, mace, together, a little.

In six ounces of this broth or thereabouts, let there be dissolved of white cremor tartari three grains.

Every third or fourth day, take a small toast of manchet, dipped in oil of sweet almonds new drawn, and sprinkled with a little loaf sugar. You

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may make the broth for two days, and take the one-half every day.

If you find the stone to stir, forbear the toast for a course or two. The intention of this broth is, not to void, but to undermine the quarry of the stones in the kidneys.

The fomentation.

Take of leaves of violets, mallows, pellitory of the wall, together, one handful; of flowers of camomile and melilot, together, one pugil; the root of marsh-mallows, one ounce; of anise and fennel seeds, together, one ounce and a half; of flax-seed two drams. Make a decoction in spring water.

The second receipt, shewing the way of making a certain ointment, which his lordship called Unguentum fragrans, sive Romanum, the fragrant or Roman unguent.

Take of the fat of a deer half a pound; of oil of sweet almonds two ounces: let them be set upon a very gentle fire, and stirred with a stick of juniper till they are melted. Add of root of flower-de-luce powdered, damask roses powdered, together, one dram; of myrrh dissolved in rose-water half a dram; of cloves half a scruple; of civet four grains; of musk six grains; of oil of mace expressed one drop; as much of rose-water as sufficeth to keep the unguent from being too thick. Let all these be put together in a glass, and set upon the embers for the space of an hour, and stirred with a stick of juniper.

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Note, that in the confection of this ointment, there was not used above a quarter of a pound, and a tenth part of a quarter of deer's suet: and that all the ingredients, except the oil of almonds, were doubled when the ointment was half made, because the fat things seemed to be too predominant.

The third receipt. A manus Christi for the stomach.

Take of the best pearls very finely pulverised, one dram; of sal nitre one scruple; of tartar two scruples; of ginger and galingal together, one ounce and a half; of calamus, root of enula campana, nutmeg, together, one scruple and a half; of amber sixteen grains; of the best musk ten grains; with rose-water and the finest sugar, let there be made a manus Christi.

The fourth receipt. A secret for the stomach.

Take lignum aloës in gross shavings, steep them in sack, or alicant, changed twice, half an hour at a time, till the bitterness be drawn forth. Then take the shavings forth, and dry them in the shade, and beat them to an excellent powder. Of that powder, with the syrup of citrons, make a small pill, to be taken before supper.

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JUDICIAL CHARGES

AND

TRACTS.

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THE EFFECT OF THAT WHICH WAS SPOKEN BY THE LORD KEEPER OF THE GREAT SEAL OF ENGLAND, AT THE TAKING OF HIS PLACE IN CHANCERY,

IN PERFORMANCE OF THE CHARGE HIS MAJESTY HAD GIVEN HIM WHEN HE RECEIVED THE SEAL, MAY 7, 1617.

Before I enter into the business of the court, I shall take advantage of so many honourable witnesses to publish and make known summarily, what charge the king's most excellent majesty gave me when I received the seal, and what orders and resolutions I myself have taken in conformity to that charge; that the king may have the honour of direction, and I the part of obedience; whereby your lordships, and the rest of the presence, shall see the whole time of my sitting in the chancery, which may be longer or shorter, as it shall please God and the king, contracted into one hour. And this I do for three causes.

First, to give account to the king of his commandment.

Secondly, that it may be a guard and custody to myself, and my own doings, that I do not swerve or recede from any thing that I have professed in so noble company.

And thirdly, that all men that have to do with the chancery or the seal, may know what they shall

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expect, and both set their hearts and my ears at rest; not moving me in any thing against these rules; knowing that my answer is now turned from a "nolumus" into a "non possumus." It is no more, I will not, but, I cannot, after this declaration.

And this I do also under three cautions.

This first is, that there be some things of a more secret and council-like nature, more fit to be acted than published. But those things which I shall speak of to-day are of a more public nature.

The second is, that I will not trouble this presence with every particular, which would be too long; but select those things which are of greatest efficacy, and conduce most "ad summas rerum;" leaving many other particulars to be set down in a table, according to the good example of my last predecessor in his beginning.

And lastly, that these imperatives, which I have made but to myself and my times, be without prejudice to the authority of the court, or to wiser men that may succeed me; and chiefly that they are wholly submitted unto the great wisdom of my sovereign, and the absolute prince in judicature that hath been in the Christian world; for if any of these things which I intend to be subordinate to his directions, shall be thought by his majesty to be inordinate, I shall be most ready to reform them. These things are but, "tanquam album prætoris;" for so did the Roman prætors, which have the greatest affinity with the jurisdiction of the chancellor here, who used to set down at their entrance, how they

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would use their jurisdiction. And this I shall do, my lords, "in verbis masculis;" no flourishing or painted words, but such as are fit to go before deeds.

The king's charge, which is my lanthorn, rested upon four heads.

The first was, that I should contain the jurisdiction of the court within its true and due limits, without swelling or excess.

The second, that I should think the putting of the great seal to letters patents was not a matter of course to follow after precedent warrants; but that I should take it to be the maturity and fulness of the king's intentions: and therefore of the greatest parts of my trust, if I saw therein any scruple or cause of stay, that I should acquaint him, concluding with a "Quod dubites ne feceris."

The third was, that I should retrench all unnecessary delays, that the subject might find that he did enjoy the same remedy against the fainting of the soul and the consumption of the estate; which was speedy justice. "Bis dat, qui cito dat."

The fourth was, that justice might pass with as easy charge as might be; and that those same brambles, that grow about justice, of needless charge and expense, and all manner of exactions, might be rooted out so far as might be.

These commandments, my lords, are righteous, and, as I may term them, sacred; and therefore to use a sacred form, I pray God bless the king for his great care over the justice of the land, and give me, his poor servant, grace and power to observe his precepts.

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Now for a beginning towards it, I have set down and applied particular orders to-day out of these four general heads.

For the excess or tumour of this court of chancery, I shall divide it into five natures.

The first is, when the court doth embrace and retain causes, both in matter and circumstance merely determinable and fit for the common law; for, my lords, the chancery is ordained to supply the law, and not to subvert the law. Now to describe unto you or delienate what those causes are that are fit for the court, or not fit for the court, were too long a lecture. But I will tell you what remedy I have prepared. I will keep the keys of the court myself, and will never refer any demurrer or plea, tending to discharge or dismiss the court of the cause, to any master of the chancery, but judge of it myself, or at least the master of the rolls. Nay farther, I will appoint regularly, that on the Tuesday of every week, which is the day of orders, first to hear motions of that nature before any other, that the subject may have his "vale" at first without attending, and that the court do not keep and accumulate a miscellany and confusion of causes of all natures.

The second point concerneth the time of the complaint, and the late comers into the chancery; which stay till a judgment be passed against them at the common law, and then complain: wherein your lordships may have heard a great rattle and a noise of a "præmunire," and I cannot tell what.

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But that question the king hath settled according to the ancient precedents in all times continued. And this I will say, that the opinion, not to relieve any case after judgment, would be a guilty opinion; guilty of the ruin, and naufrage, and perishing of infinite subjects: and as the king found it well out, why should a man fly into the chancery before he be hurt? The whole need not the physician, but the sick. But, my lords, the power would be preserved, but the practice would be moderate. My rule shall be therefore, that in case of complaints after judgment, except the judgments be upon "nihil dicit," and cases which are but disguises of judgment, as that they be judgments obtained in contempt of a preceding order in this court, yea, and after verdicts also, I will have the party complainant enter into good bond to prove his suggestion: so that if he will be relieved against a judgment at common law upon matter of equity, he shall do it "tanquam in vinculis," at his peril.

The third point of excess may be the over-frequent and facile granting of injunctions for the staying of the common laws, or the altering of possessions; wherein these shall be my rules.

I will grant no injunction merely upon priority of suit; that is to say, because this court was first possessed: a thing that was well reformed in the late lord chancellor's time, but usual in the chancellor Bromley's time; insomuch, as I remember, that Mr. Dalton the counsellor at law put a pasquil upon the court in nature of a bill; for seeing it was no more but, My lord, the bill came in on Monday, and the

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arrest at common law was on Tuesday, I pray the injunction upon priority of suit: he caused his client that had a loose debtor, to put his bill into the chancery before the bond due to him was forfeited, to desire an order that he might have his money at the day, because he would be sure to be before the other. I do not mean to make it a matter of an horse-race who shall be first at Westminster-hall.

Neither will I grant an injunction upon matter contained in the bill only, be it never so smooth and specious; but upon matter confessed in the defendant's answer, or matter pregnant in writing, or of record; or upon contempt of the defendant in not appearing, or not answering, or trifling with the court by insufficient answering. For then it may be thought that the defendant stands out upon purpose to get the start at the common law, and so to take advantage of his own contempt; which may not be suffered.

As for injunctions for possession, I shall maintain possessions as they were at the time of the bill exhibited; and for the space of a year at the least before, except the possession were gotten by force or any trick.

Neither will I alter possession upon interlocutory orders, until a decree; except upon matter plainly confessed in the defendant's answer, joined also with a plain disability and insolvency in the defendant to answer the profits.

As for taking of possession away in respect of contempts, I will have all the process of the court spent first, and a sequestration of the profits before I come to an injunction.

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The fourth point is concerning the communicating of the authority of the chancellor too far; and making, upon the matter, too many chancellors, by relying too much upon the reports of the masters of the chancery as concludent. I know, my lords, the masters of the chancery are reverend men; and the great mass of the business of the court cannot be sped without them; and it is a thing the chancellor may soon fall into for his own ease, to rely too much upon them. But the course that I will take generally shall be this; I will make no binding order upon any report of one of the masters, without giving a seven-night's day at the least, to shew cause against the report, which nevertheless I will have done modestly, and with due reverence towards them: and again, I must utterly discontinue the making of an hypothetical or conditional order; that if a master of the chancery do certify thus and thus, that then it is so ordered without farther motion; for that it is a surprise, and giveth no time for contradiction.

The last point of excess is, if a chancellor shall be so much of himself, as he shall neglect assistance of reverend judges in cases of difficulty, especially if they touch upon law, or calling them, shall do it but "pro forma tantum," and give no due respect to their opinions: wherein, my lords, preserving the dignity and majesty of the court, which I account rather increased than diminished by grave and due assistance, I shall never be found so sovereign or abundant in mine own sense, but I shall both desire and make true use of assistance. Nay, I assure your lordships,

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if I should find any main diversity of opinion of my assistants from mine own, though I know well the judicature of the court wholly resteth in myself; yet I think I should have recourse to the oracle of the king's own judgment, before I should pronounce. And so much for the temperate use of the authority of this court; for surely the health of a court, as well as of a body, consisteth in temperance.

For the second commandment of his majesty, touching staying of grants at the great seal; there may be just cause of stay, either in the matter of the grant, or in the manner of passing the same. Out of both which I extract these six principal cases which I will now make known: all which, nevertheless, I understand to be wholly submitted to his majesty's will and pleasure, after by me he shall have been informed; for if "iteratum mandatum" be come, obedience is better than sacrifice.

The first case is, where any matter of revenue, or treasure, or profit, passeth from his majesty; my first duty shall be to examine, whether the grant hath passed in the due and natural course by the great officers of the revenue, the lord treasurer and chancellor of the exchequer, and with their privity; which if I find it not to be, I must presume it to have passed in the dark, and by a kind of surreption; and I will make stay of it till his majesty's pleasure be farther known.

Secondly, if it be a grant that is not merely vulgar, and hath not of course passed at the signet by a "fac simile," but needeth science, my duty shall be

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to examine whether it hath passed by the learned counsel and had their docket; which is that his majesty reads, and leads him. And if I find it otherwise, although the matter were not in itself inconvenient, yet I hold it a just cause of stay, for precedent's sake, to keep men in the right way.

Thirdly, if it be a grant which I conceive, out of my little knowledge, to be against the law; of which nature Theodosius was wont to say, when he was pressed, "I spake it, or I wrote it, but I granted it not if it be unjust:" I will call the learned counsel to it, as well him that drew the book as the rest, or some of them: and if we find cause, I will inform his majesty of our opinion, either by myself or some of them. And as for the judges, they are judges of grants past, but not of grants to come, except the king call them.

Fourthly, if the grants be against the king's public book of bounty, I am expressly commanded to stay them until the king either revise his book in general, or give direction in particular.

Fifthly, if, as a counsellor of estate, I do foresee inconvenience to ensue by the grant in reason of estate, in respect of the king's honour, or discontent, and murmur of the people; I will not trust mine own judgment, but I will either acquaint his majesty with it, or the council table, or some such of my lords as I shall think fit.

Lastly, for matter of pardons; if it be for treason, misprision, murder, either expressed or involute, by a "non-obstante;" or of piracy, or of "præmunire," or

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of fines, or exemplary punishment in the star-chamber, or some other natures; I shall by the grace of God stay them until his Majesty, who is the fountain of grace, may resolve between God and him, how far grace shall abound or super-abound.

And if it be of persons attainted and convicted of robbery, burglary, etc. then will I examine whether the pardons passed the hand of any justice of assize, or other commissioners, before whom the trial was made; and if not, I think it my duty also to stay them.

And your lordships see in this matter of the seal, and his Majesty's royal commandment concerning the same, I mean to walk in the light; so that men may know where to find me: and this publishing thereof plainly, I hope, will save the king from a great deal of abuse, and me from a great deal of envy; when men shall see that no particular turn or end leads me, but a general rule.

For the third general head of his Majesty's precepts concerning speedy justice, it rests much upon myself, and much upon others: yet so, as my procuration may give some remedy and order to it. For myself, I am resolved that my decree shall come speedily, if not instantly, after the hearing, and my signed decree speedily upon my decree pronounced. For it hath been a manner much used of late in my last lord's time, of whom I learn much to imitate, and somewhat to avoid; that upon the solemn and full hearing of a cause nothing is pronounced in court, but breviates are required to be made; which I do not dislike in itself in causes perplexed. For I con-

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fess I have somewhat of the cunctative; and I am of opinion, that whosoever is not wiser upon advice than upon the sudden, the same man was no wiser at fifty than he was at thirty. And it was my father's ordinary word, "You must give me time." But yet I find when such breviates were taken, the cause was sometimes forgotten a term or two, and then set down for a new hearing, three or four terms after. And in the mean time the subjects pulse beats swift, though the chancery pace be slow. Of which kind of intermission I see no use, and therefore I will promise regularly to pronounce my decree within few days after my hearing; and to sign my decree at the least in the vacation after the pronouncing. For fresh justice is the sweetest. And to the end that there be no delay of justice, nor any other means-making or labouring, but the labouring of the counsel at the bar.

Again, because justice is a sacred thing, and the end for which I am called to this place, and therefore is my way to heaven; and if it be shorter, it is never a whit the worse, I shall, by the grace of God, as far as God will give me strength, add the afternoon to the forenoon, and some fourth night of the vacation to the term, for the expediting and clearing of the causes of the court; only the depth of the three long vacations I would reserve in some measure free from business of estate, and for studies, arts and sciences, to which in my own nature I am most inclined.

There is another point of true expedition, which

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resteth much in myself, and that is in my manner of giving orders. For I have seen an affectation of dispatch turn utterly to delay at length: for the manner of it is to take the tale out of the counsellor at the bar his mouth, and to give a cursory order, nothing tending or conducing to the end of the business. It makes me remember what I heard one say of a judge that sat in chancery; that he would make forty orders in a morning out of the way, and it was out of the way indeed; for it was nothing to the end of the business: and this is that which makes sixty, eighty, an hundred orders in a cause, to and fro, begetting one another; and like Penelope's web, doing and undoing. But I mean not to purchase the praise of expeditive in that kind; but as one that have a feeling of my duty, and of the case of others. My endeavour shall be to hear patiently, and to cast my order into such a mould as may soonest bring the subject to the end of his journey.

As for delays that may concern others, first the great abuse is, that if the plaintiff have got an injunction to stay suits at the common law, then he will spin out his cause at length. But by the grace of God I will make injunctions but an hard pillow to sleep on; for if I find that he prosecutes not with effect, he may perhaps, when he is awake, find not only his injunction dissolved, but his cause dismissed.

There be other particular orders, I mean to take for *non* prosecution or faint prosecution, wherewith I

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will not trouble you now, because "summa sequar fastigia rerum." And so much for matter of expedition.

Now for the fourth and last point of the king's commandment; for the cutting off unnecessary charge of the subject, a great portion of it is fulfilled in the precedent article; for it is the length of suits that doth multiply charges chiefly; but yet there are some other remedies that do conduce thereunto.

First, therefore, I will maintain strictly, and with severity, the former orders which I find my lord chancellor hath taken, for the immoderate and needless prolixity, and length of bills, and answers, and so forth; as well in punishing the party, as fining the counsel, whose hand I shall find at such bills, answers, etc.

Secondly, for all the examinations taken in the court, I do give charge unto the examiners, upon peril of losing their places, that they do not use any idle repetitions, or needless circumstances, in setting down the depositions taken by them; and I would I could help it likewise in the country, but that is almost impossible.

Thirdly, I shall take a diligent survey of the copies in chancery, that they have their just number of lines, and without open and wasteful writing.

Fourthly, I shall be careful there be no exaction of any new fees, but according as they have been heretofore set and tabled.

As for lawyers fees, I must leave that to the conscience and merit of the lawyer; and the estimation

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and gratitude of the client: but this I can do; I know there have used to attend this bar a number of lawyers that have not been heard sometimes, and scarce once or twice in a term; and that makes the client seek to great counsel and favourites, as they call them, for every order that a mean lawyer might as well dispatch, a term fitter for kings than judges. And therefore to help the generality of lawyers, and therein to ease the client, I will constantly observe that every Tuesday, and other days of orders, after nine o'clock strucken, I will hear the bar until eleven, or half an hour after ten at the least. And since I am upon the point whom I will hear, your lordships will give me leave to tell you a fancy. It falleth out, that there be three of us the king's servants in great places, that are lawyers by descent, Mr. Attorney son of a judge, Mr. Solicitor likewise son of a judge, and myself a chancellor's son.

Now because the law roots so well in my time, I will water it at the root thus far, as besides these great ones, I will hear any judge's son before a serjeant, and any serjeant's son before a reader, if there be not many of them.

Lastly, for the better ease of the subjects, and the bridling of contentious suits, I shall give better, that is greater, costs where the suggestions are not proved, than hath been hitherto used.

There be divers orders for the better reglement of this court; and for granting of writs, and for granting of benefices and others, which I shall set down in a table. But I will deal with no other to-

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day but such as have a proper relation to his Majesty's commandment; it being my comfort that I serve such a master, that I shall need to be but a conduit only for the conveying of his goodness to his people. And it is true, that I do affect and aspire to make good that saying, that "Optimus magistratus præstat optimæ legi;" which is true in his Majesty. And for myself, I doubt, I shall not attain it. But yet I have a domestic example to follow. My lords, I have no more to say, but now I will go on to the business of the court.

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THE SPEECH WHICH WAS USED BY THE LORD KEEPER OF THE GREAT SEAL, IN THE STAR-CHAMBER, BEFORE THE SUMMER CIRCUITS, THE KING BEING THEN IN SCOTLAND, 1617.

THE King, by his perfect declaration published in this place concerning judges and justices, hath made the speech of his chancellor, accustomed before the circuits, rather of ceremony than of use. For as in his book to his son he hath set forth a true character and platform of a King; so in this his speech he hath done the like of a judge and justice: which sheweth, that as his Majesty is excellently able to govern in chief; so he is likewise well seen and skilful in the inferior offices and stages of justice and government; which is a thing very rare in Kings.

Yet nevertheless, somewhat must be said to fulfil an old observance; but yet upon the King's grounds, and very briefly: for, as Solomon saith in another case, "In these things who is he that can come after the King?"

First, You that are the judges of circuits are, as it were, the planets of the kingdom, I do you no dishonour in giving you that name, and no doubt you have a great stroke in the frame of this government, as the other have in the great frame of the

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world. Do therefore as they do, move always, and be carried with the motion of your first mover, which is your Sovereign. A popular judge is a deformed thing: and "plaudites" are fitter for players than for magistrates. Do good to the people, love them and give them justice; but let it be, as the Psalm saith, "nihil inde expectantes;" looking for nothing, neither praise nor profit.

Yet my meaning is not, when I wish you to take heed of popularity, that you should be imperious and strange to the gentlemen of the country. You are above them in power, but your rank is not much unequal; and learn this, that power is ever of greatest strength, when it is civilly carried.

Secondly, You must remember, that besides your ordinary administration of justice, you do carry the two glasses or mirrors of the state; for it is your duty in these your visitations, to represent to the people the graces and care of the King: and again, upon your return, to present to the King the distastes and griefs of the people.

Mark what the King says in his book "Procure reverence to the King and the law; inform my people truly of me," (which, we know, is hard to do according to the excellency of his merit; but yet endeavour it,) "how zealous I am for religion; how I desire law may be maintained and flourish; that every court should have its jurisdiction; that every subject should submit himself to the law." And of this you have had of late no small occasion of notice and remembrance, by the great and strait charge

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that the King hath given me as keeper of his seal, for the governing of the chancery without tumour or excess.

Again, "e re nata," you at this present ought to make the people know and consider the King's blessed care and providence in governing this realm in his absence; so that sitting at the helm of another kingdom, not without great affairs and business; yet he governs all things here by his letters and directions, as punctually and perfectly as if he were present.

I assure you, my lords of the council and I do much admire the extension and latitude of his care in all things.

In the high commission he did conceive a sinew of government was a little shrunk; he recommended the care of it.

He hath called for the accounts of the last circuit from the judges to be transmitted unto him in Scotland.

Touching the infestation of pirates, he hath been careful, and is, and hath put things in a way.

All things that concern the reformation or the plantation of Ireland, he hath given in them punctual and resolute directions. All this in absence.

I give but a few instances of a public nature; the secrets of council I may not enter into, though his dispatches into France, Spain, and the Low-Countries, now in his absence, are also notorious as to the outward sending. So that I must conclude that his Majesty wants but more kingdoms, for I see he could suffice to all.

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As for the other glass I told you of, of representing to the King the griefs of his people, without doubt it is properly your part; for the King ought to be informed of any thing amiss in the state of his countries from the observations and relations of the judges, that indeed know the pulse of the country, rather than from discourse. But for this glass, thanks be to God, I do hear from you all, that there was never greater peace, obedience, and contentment in the country; though the best governments be always like the fairest crystals, wherein every little icicle or grain is seen, which in a fouler stone is never perceived.

Now to some particulars, and not many: of all other things I must begin as the King begins; that is, with the cause of religion, and especially the hollow church-papist. St. Augustin hath a good comparison of such men, affirming, that they are like the roots of nettles, which themselves sting not, but yet they bear all the stinging leaves: let me know of such roots, and I will root them out of the country.

Next, for the matter of religion; in the principal place I recommended both to you and to the justices, the countenancing of godly and zealous preachers. I mean not sectaries or novellists, but those which are sound and conform, and yet pious and reverend: for there will be a perpetual defection, except you keep men in by preaching, as well as law doth by punishing; and commonly spiritual diseases are not cured but by spiritual remedies.

Next, let me commend unto you the repressing,

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as much as may be, of faction in the countries, of which ensue infinite inconveniences, and perturbations of all good order, and crossing of all good service in court or country, or wheresoever. Cicero, when he was consul, had devised a fine remedy, a mild one, but an effectual and apt one, for he saith, "Eos, qui otium perturbant, reddam otiosos." Those that trouble others quiet, I will give them quiet; they shall have nothing to do, nor no authority shall be put into their hands. If I may know from you, of any who are in the country that are heads or hands of faction, or men of turbulent spirits; I shall give them Cicero's reward, as much as in me is.

To conclude, study the King's book, and study yourselves how you profit by it, and all shall be well. And you the justices of peace in particular, let me say this to you, never King of this realm did you so much honour as the King hath done you in his speech, by being your immediate director, and by sorting you and your service with the service of ambassadors, and of his nearest attendance. Nay more, it seems his Majesty is willing to do the state of justice of peace honour actively also; by bringing in with time the like form or commission into the government of Scotland, as that glorious King, Edward the third, did plant this commission here in this kingdom. And therefore you are not fit to be copies, except you be fair written without blots or blurs, or any thing unworthy your authority: and so I will trouble you no longer for this time.

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THE SPEECH USED BY SIR FRANCIS BACON, LORD KEEPER OF THE GREAT SEAL OF ENGLAND, TO SIR WILLIAM JONES, UPON HIS CALLING TO BE LORD CHIEF JUSTICE OF IRELAND, 1617.

Sir William Jones,

The King's most excellent Majesty, being duly informed of your sufficiency every way, hath called you, by his writ now returned, to the state and degree of a serjeant at law; but not to stay there, but, being so qualified, to serve him as his chief justice of his King's bench in his realm of Ireland. And therefore that which I shall say to you, must be applied not to your serjeant's place, which you take but in passage, but to that great place where you are to settle; and because I will not spend time to the delay of the business of causes of the court, I will lead you the short journey by examples, and not the long by precepts.

The place that you shall now serve in, hath been fortunate to be well served in four successions before you: do but take unto you the constancy and integrity of Sir Robert Gardiner; the gravity, temper, and direction of Sir James Lea; the quickness, in-

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dustry, and dispatch of Sir Humphry Winch; the care and affection to the commonwealth, and the prudent and politic administration of Sir John Denham, and you shall need no other lessons. They were all Lincoln's-Inn men as you are, you have known them as well in their beginnings, as in their advancement.

But because you are to be there not only chief justice, but a counsellor of estate, I will put you in mind of the great work now in hand, that you may raise your thoughts according unto it. Ireland is the last "ex filiis Europæ," which hath been reclaimed from desolation, and a desart, in many parts, to population and plantation; and from savage and barbarous customs to humanity and civility. This is the King's work in chief: it is his garland of heroical virtue and felicity, denied to his progenitors, and reserved to his times. The work is not yet conducted to perfection, but is in fair advance: and this I will say confidently, that if God bless this kingdom with peace and justice, no usurer is so sure in seven years space to double his principal with interest, and interest upon interest, as that kingdom is within the same time to double the stock both of wealth and people. So as that kingdom, which once within these twenty years wise men were wont to doubt whether they should wish it to be in a pool, is like now to become almost a garden, and younger sister to Great Britain. And therefore you must set down with yourself to be not only a just governor, and a good chief justice, as if it were in England, but under

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the King and the deputy you are to be a master-builder, and a master-planter, and reducer of Ireland. To which end, I will trouble you at this time but with three directions.

The first is, that you have special care of the three plantations. That of the north, which is in part acted; that of Wexford, which is now in distribution; and that of Longford and Letrim, which is now in survey. And take this from me, that the bane of a plantation is, when the undertakers or planters make such haste to a little mechanical present profit, as disturbeth the whole frame and nobleness of the work for times to come. Therefore hold them to their covenants, and the strict ordinances of plantation.

The second is, that you be careful of the King's revenue, and by little and little constitute him a good demesne, if it may be, which hitherto is little or none. For the King's case is hard, when every man's land shall be improved in value with increase manifold and the King shall be tied to his dry rent.

My last direction, though first in weight, is, that you do all good endeavours to proceed resolutely and constantly, and yet with due temperance and equality, in matters of religion; lest Ireland civil become more dangerous to us than Ireland savage. So God give you comfort of your place.

After Sir William Jones's speech:

I had forgotten one thing, which was this. You may take exceeding great comfort, that you shall

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serve with such a deputy; one that, I think, is a man ordained of God to do great good to that kingdom. And this I think good to say to you, that the true temper of a chief justice towards a deputy is, neither servilely to second him, nor factiously to oppose him.

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THE LORD KEEPER'S SPEECH, IN THE EXCHEQUER, TO SIR JOHN DENHAM, WHEN HE WAS CALLED TO BE ONE OF THE BARONS OF THE EXCHEQUER, IN 1617.

Sir John Denham,

The King, of his grace and favour, hath made choice of you to be one of the barons of the exchequer, to succeed to one of the gravest and most reverend judges of this kingdom; for so I hold Baron Altham was. The King takes you not upon credit but proof, and great proof of your former service: and that in both those kinds wherein you are now to serve: for as you have shewed yourself a good judge between party and party, so you have shewed yourself a good administer of the revenue, both when you were chief baron, and since as counsellor of estate there in Ireland, where the council, as you know, doth in great part manage and messuage the revenue.

And to both these parts I will apply some admonitions, but not vulgar or discursive, but apt for the times, and in few words, for they are best remembered.

First therefore, above all you ought to maintain the King's prerogative, and to set down with yourself, that the King's prerogative and the law are not two things; but the King's prerogative is law, and

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the principal part of the law, the first-born or "pars prima" of the law; and therefore in conserving or maintaing that, you conserve and maintain the law. There is not in the body of man one law of the head, and another of the body, but all is one entire law.

The next point that I would now advise you is, that you acquaint yourself diligently with the revenue; and also with the ancient records and precedents of this court. When the famous case of the copper-mines was argued in this court, and judged for the King, it was not upon the fine reasons of wit; as that the King's prerogative drew to it the chief "in quaque specie:" the lion is the chief of beasts, the eagle the chief of birds, the whale the chief of fishes, and so copper the chief of minerals; for these are but dalliances of law and ornaments: but it was the grave records and precedents that grounded the judgment of that cause; and therefore I would have you both guide and arm yourself with them against these vapours and fumes of law, which are extracted out of men's inventions and conceits.

The third advice I will give you hath a large extent; it is, that you do your endeavour in your place so to manage the King's justice and revenue, as the King may have most profit, and the subject least vexation: for when there is much vexation to the subject, and little benefit to the King, then the exchequer is sick: and when there is much benefit to the King, with less trouble and vexation to the subject, then the exchequer is sound. As for example; if there shall be much racking for the King's old

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debts; and the more fresh and late debts shall be either more negligently called upon, or over-easily discharged, or over-indulgently stalled: or if the number of informations be many, and the King's part or fines for compositions a trifle; or if there be much ado to get the King new land upon concealments, and that which he hath already be not known and surveyed, nor the woods preserved, (I could put you many other cases,) this falls within that which I term the sick estate of the exchequer: and this is that which makes every man ready with their undertakings and their projects to disturb the ancient frame of the exchequer; than the which, I am persuaded, there is not a better, this being the burden of the song: That much goeth out of the subject's purse, and little cometh to the king's purse. Therefore, give them not that advantage so to say. Sure I am, that besides your own associates, the barons, you serve with two superior great officers, that have honourable and true ends, and desire to serve the King and right the subject.

There resteth, that I deliver you your patent.

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HIS LORDSHIP'S SPEECH IN THE COMMON-PLEAS, TO JUSTICE HUTTON, WHEN HE WAS CALLED TO BE ONE OF THE JUDGES OF THE COMMON PLEAS.

MR. SERJEANT HUTTON,

THE King's most excellent majesty, being duly informed of your learning, integrity, discretion, experience, means, and reputation in your country, hath thought fit not to leave you these talents to be employed upon yourself only, but to call you to serve himself, and his people, in the place of one of his justices of the court of common-pleas.

This court where you are to serve, is the local centre and heart of the laws of this realm: here the subject hath his assurance by fines and recoveries; here he hath his fixed and invariable remedies by "præcipes" and writs of right; here justice opens not by a by-gate of privilege, but by the great gate of the King's original writs out of the chancery. Here issues process of outlawry; if men will not answer law in this centre of law, they shall be cast out. And therefore it is proper for you, by all means, with your wisdom and fortitude, to maintain the laws of the realm: wherein, nevertheless, I would not have you head-strong, but heart-strong; and to weigh and remember with yourself, that the twelve judges of

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the realm are as the twelve lions under Solomon's throne: they must shew their stoutness in elevating and bearing up the throne. To represent unto you the lines and portraitures of a good judge:

1. The first is, that you should draw your learning out of your books, not out of your brain.

2. That you should mix well the freedom of your own opinion with the reverence of the opinion of your fellows.

3. That you should continue the studying of your books, and not to spend on upon the old stock.

4. That you should fear no man's face, and yet not turn stoutness into bravery.

5. That you should be truly impartial, and not so as men may see affection through fine carriage.

6. That you should be a light to jurors to open their eyes, but not a guide to lead them by the noses.

7. That you affect not the opinion of pregnancy and expedition by an impatient and catching hearing of the counsellors at the bar.

8. That your speech be with gravity, as one of the sages of the law; and not talkative, nor with impertinent flying out to shew learning.

9. That your hands, and the hands of your hands, I mean those about you, be clean, and uncorrupt from gifts, from meddling in titles, and from serving of turns, be they of great ones or small ones.

10. That you contain the jurisdiction of the court within the ancient merestones, without removing the mark.

11. Lastly, That you carry such a hand over your

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ministers and clerks, as that they may rather be in awe of you, than presume upon you.

These and the like points of the duty of a judge, I forbear to enlarge; for the longer I have lived with you, the shorter shall my speech be to you; knowing that you come so furnished and prepared with these good virtues, as whatsoever I shall say cannot be new unto you; and therefore I will say no more unto you at this time, but deliver you your patent.

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ORDINANCES MADE BY THE LORD CHANCELLOR BACON, FOR THE BETTER AND MORE REGULAR ADMINISTRATION OF JUSTICE IN THE CHANCERY, TO BE DAILY OBSERVED, SAVING THE PREROGATIVE OF THE COURT.

No decree shall be reversed, altered, or explained, being once under the great seal, but upon bill of review: and no bill of review shall be admitted, except it contain either error in law, appearing in the body of the decree, without farther examination of matters in fact, or some new matter which hath risen in time after the decree, and not any new proof which might have been used when the decree was made: nevertheless upon new proof, that is come to light after the decree made, and could not possibly have been used at the time when the decree passed, a bill of review may be grounded by the special license of the court, and not otherwise.

2. In case of miscasting, being a matter demonstrative, a decree may be explained, and reconciled by an order without a bill of review; not understanding, by miscasting, any pretended misrating or misvaluing, but only error in the auditing or numbering.

3. No bill of review shall be admitted, or any other new bill, to change matter decreed, except the decree be first obeyed and performed: as, if it be for

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land, that the possession be yielded; if it be for money, that the money be paid; if it be for evidences, that the evidences be brought in; and so in other cases which stand upon the strength of the decree alone.

4. But if any act be decreed to be done which extinguisheth the parties right at the common law, as making of assurance or release, acknowledging satisfaction, cancelling of bonds, or evidences, and the like; those parts of the decree are to be spared until the bill of review be determined; but such sparing is to be warranted by public order made in court.

5. No bill of review shall be put in, except the party that prefers it enter into recognizance with sureties for satisfying of costs and damages for the delay, if it be found against him.

6. No decrees shall be made, upon pretence of equity, against the express provision of an act of parliament: nevertheless if the construction of such act of parliament hath for a time gone one way in general opinion and reputation, and after by a later judgment hath been controlled, then relief may be given upon matter of equity, for cases arising before the said judgment, because the subject was in no default.

7. Imprisonment for breach of a decree is in nature of an execution, and therefore the custody ought to be strait, and the party not to have any liberty to go abroad, but by special licence of the lord chancellor; but no close imprisonment is to be, but by express order for wilful and extraordinary contempts and disobedience, as hath been used.

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8. In case of enormous and obstinate disobedience in breach of a decree, an injunction is to be granted "sub pœna" of a sum; and upon affidavit, or other sufficient proof, or persisting in contempt, fines are to be pronounced by the lord chancellor in open court, and the same to be estreated down into the hanaper, if cause be, by a special order.

9. In case of a decree made for the possession of land, a writ of execution goes forth; and if that be disobeyed, then process of contempt according to the course of the court against the person, unto a commission of rebellion; and then a serjeant at arms by special warrant: and in case the serjeant at arms cannot find him, or be resisted; or upon the coming in of the party, and his commitment, if he persist in disobedience, an injunction is to be granted for the possession; and in case also that be disobeyed, then a commission to the sheriff to put him into possession.

10. Where the party is committed for the breach of a decree, he is not to be enlarged until the decree be fully performed in all things, which are to be done presently. But if there be other parts of the decree to be performed at days, at times to come, then he may be enlarged by order of the court upon recognizance, with sureties to be put in for the performance thereof "de futuro," otherwise not.

11. Where causes come to a hearing in court, no decree bindeth any person who was not served with process "ad audiendum judicium," according

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to the course of the court, or did appear "gratis" in person in court.

12. No decree bindeth any that cometh in "bona fide," by conveyance from the defendant before the bill exhibited, and is made no party, neither by bill nor the order: but where he comes in "pendente lite," and while the suit is in full prosecution, and without any colour of allowance or privity of the court, there regularly the decree bindeth; but if there were any intermission of suit, or the court made acquainted with the conveyance, the court is to give order upon the special matter according to justice.

13. Where causes are dismissed upon full hearing, and the dismission signed by the lord chancellor, such causes shall not be retained again, nor new bill exhibited, except it be upon new matter, like to the case of the bill of review.

14. In case of all other dismissions, which are not upon hearing of the cause, if any new bill be brought, the dismission is to be pleaded; and after reference and report of the contents of both suits, and consideration taken of the former orders and dismission, the court shall rule the retaining or dismissing of the new bill, according to justice and nature of the case.

15. All suits grounded upon wills nuncupative, leases parol, or upon long leases that tend to the defeating of the king's tenures, or for the establishing of perpetuities, or grounded upon remainders put into the crown, to defeat purchasers; or for brokage

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or rewards to make marriages; or for bargains at play and wagers; or for bargains for offices contrary to the statute of 5 and 6 Ed. VI. or for contracts upon usury or simony, are regularly to be dismissed upon motion, if they be the sole effect of the bill; and if there be no special circumstances to move the court to allow their proceedings, and all suits under the value of ten pounds, are regularly to be dismissed. V. postea § 58. 60.

16. Dismissions are properly to be prayed, and had, either upon hearing, or upon plea unto the bill, when the cause comes first into court; but dismissions are not to be prayed after the parties have been at charge of examination, except it be upon special cause.

17. If the plaintiff discontinue the prosecution, after all the defendants have answered, above the space of one whole term, the cause is to be dismissed of course without any motion; but after replication put in, no cause is to be dismissed without motion and order of the court.

18. Double vexation is not to be admitted; but if the party sue for the same cause at the common law and in chancery, he is to have a day given to make his election where he will proceed, and in default of making such election to be dismissed.

19. Where causes are removed by special "certiorari" upon a bill containing matter of equity, the plaintiff is, upon receipt of his writ, to put in bond to prove his suggestions within fourteen days after the receipt; which, if he do not prove, then upon certificate from either of the examiners, presented to

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the lord chancellor, the cause shall be dismissed with costs, and a "procedendo" to be granted.

20. No injunction of any nature shall be granted, revived, dissolved, or stayed upon any private petition.

21. No injunction to stay suits at the common law shall be granted upon priority of suit only, or upon surmise of the plaintiff's bill only; but upon matter confessed in the defendant's answer, or matter of record, or writing plainly appearing, or when the defendant is in contempt for not answering, or that the debt desired to be stayed appeareth to be old, and hath slept long, or the creditor or the debtor hath been dead some good time before the suit brought.

22. Where the defendant appears not, but sits an attachment; or when he doth appear, and departs without answer, and is under attachment for not answering; or when he takes oath he cannot answer without sight of evidences in the country; or where after answer he sues at common law by attorney, and absents himself beyond sea; in these cases an injunction is to be granted for the stay of all suits at the common law, until the party answer or appear in person in court, and the court give farther order: but nevertheless upon answer put in, if there be no motion made the same term, or the next general seal after the term, to continue the injunction in regard of the insufficiency of the answer put in, or in regard of matter confessed in the answer, then the injunction to die and dissolve without any special order.

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23. In the case aforesaid, where an injunction is to be awarded for stay of suits at the common law, if the like suit be in the chancery, either by "scire facias," or privilege, or English bill, then the suit is to be stayed by order of the court, as it is in other courts by injunction, for that the court cannot injoin itself.

24. Where an injunction hath been obtained for staying of suits, and no prosecution is had for the space of three terms, the injunction is to fall of itself without farther motion.

25. Where a bill comes in after an arrest at the common law for debt, no injunction shall be granted without bringing the principal money into court, except there appear in the defendant's answer, or by sight of writings, plain matter tending to discharge the debt in equity: but if an injunction be awarded and disobeyed, in that case no money shall be brought in, or deposited, in regard of the contempt.

26. Injunctions for possession are not to be granted before a decree, but where the possession hath continued by the space of three years, before the bill exhibited, and upon the same title; and not upon any title by lease, or otherwise determined.

27. In case where the defendant sits all the process of contempt, and cannot be found by the serjeant at arms, or resists the serjeant, or makes rescue, a sequestration shall be granted of the land in question;

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and if the defendant render not himself within the year, then an injunction for the possession.

28. Injunctions against felling of timber, ploughing up of ancient pastures, or for the maintaining of inclosures, or the like, shall be granted according to the circumstances of the case; but not in case where the defendant upon his answer claimeth an estate of inheritance, except it be where he claimeth the land in trust, or upon some other special ground.

29. No sequestration shall be granted but of lands, leases, or goods in question, and not of any other lands or goods, not contained in the suits.

30. Where a decree is made for rent to be paid out of land, or a sum of money to be levied out of the profits of land, there a sequestration of the same lands, being in the defendant's hands, may be granted.

31. Where the decrees of the provincial council, or of the court of requests, or the queen's court, are by contumacy or other means interrupted; there the court of chancery, upon a bill preferred for corroborations of the same jurisdictions, decrees, and sentences, shall give remedy.

32. Where any cause comes to a hearing, that hath been formerly decreed in any other of the king's courts at Westminster, such decree shall be first read, and then to proceed to the rest of the evidence on both sides.

33. Suits after judgment may be admitted according to the ancient custom of the chancery, and

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the late royal decision of his majesty, of record, after solemn and great deliberation : but in such suits it is ordered, that bond be put in with good sureties to prove the suggestions of the bill.

34. Decrees upon suits brought after judgment shall contain no words to make void or weaken the judgment, but shall only correct the corrupt conscience of the party, and rule him to make restitution, or perform other acts, according to the equity of the cause.

35. The registers are to be sworn, as hath been lately ordered.

36. If any order shall be made, and the court not informed of the last material order formerly made, no benefit shall be taken by such order, as granted by abuse and surreption ; and to that end the registers ought duly to mention the former order in the later.

37. No order shall be explained upon any private petition but in court as they are made, and the register is to set down the orders as they were pronounced by the court, truly, at his peril, without troubling the lord chancellor, by any private attending of him, to explain his meaning; and if any explanation be desired, it is to be done by public motion, where the other party may be heard.

38. No draught of any order shall be delivered by the register to either party, without keeping a copy by him, to the end that if the order be not entered, nevertheless the court may be informed

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what was formerly done, and not put to new trouble and hearing; and to the end also that knowledge of orders be not kept back too long from either party, but may presently appear at the office.

39. Where a cause hath been debated upon hearing of both parties, and opinion hath been delivered by the court, and nevertheless the cause referred to treaty, the registers are not to omit the opinion of the court, in drawing of the order of reference, except the court doth specially declare that it be entered without any opinion either way; in which case nevertheless the registers are out of their short note to draw up some more full remembrance of that that passed in court, to inform the court if the cause come back and cannot be agreed.

40. The registers, upon sending of their draught unto the counsel of the parties, are not to respect the interlineations, or alterations of the said counsel, be the said counsel never so great, farther, than to put them in remembrance of that which was truly delivered in court, and so to conceive the order, upon their oath and duty, without any farther respect.

41. The registers are to be careful in the penning and drawing up of decrees, and special matters of difficulty and weight; and therefore when they present the same to the lord chancellor, they ought to give him understanding which are such decrees of weight, that they may be read and reviewed before his lordship sign them.

42. The decrees granted at the rolls are to be

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presented to his lordship, with the orders whereupon they are drawn, within two or three days after every term.

43. Injunctions for possession, or for stay of suits after verdict, are to be presented to his lordship, together with the orders whereupon they go forth, that his lordship may take consideration of the order before he sign them.

44. Where any order upon the special nature of the case shall be made against any of these general rules, there the register shall plainly and expressly set down the particulars, reasons and grounds, moving the court to vary from the general use.

45. No reference upon a demurrer, or question touching the jurisdiction of the court, shall be made to the masters of the chancery; but such demurrers shall be heard and ruled in court, or by the lord chancellor himself.

46. No order shall be made for the confirming or ratifying of any report without day first given, by the space of a sevennight at the least, to speak to it in court.

47. No reference shall be made to any masters of the court, or any other commissioners to hear and determine, where the cause is gone so far as to examination of witnesses, except it be in special causes of parties near in blood, or of extreme poverty, or by consent and general reference of the estate of the cause, except it be by consent of the parties to be sparingly granted.

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48. No report shall be respected in court, which exceedeth the warrant of the order of reference.

49. The masters of the court are required not to certify the state of any cause, as if they would make breviate of the evidence on both sides, which doth little ease the court, but with some opinion; or otherwise, in case they think it too doubtful to give opinion, and therefore make such special certificate, the cause is to go on to a judicial hearing, without respect had to the same.

50. Matters of account, unless it be in very weighty causes, are not fit for the court, but to be prepared by reference, with this difference nevertheless, that the cause comes first to a hearing; and upon the entrance into a hearing, they may receive some direction, and be turned over to have the accounts considered, except both parties, before a hearing, do consent to a reference of the examination of the accounts, to make it more ready for a hearing.

51. The like course to be taken for the examination of court rolls, upon customs and copies, which shall not be referred to any one master, but to two masters at the least.

52. No reference to be made of the insufficiency of an answer, without shewing of some particular point of the defect, and not upon surmise of the insufficiency in general.

53. Where a trust is confessed by the defendant's answer, there needeth no farther hearing of the cause, but a reference presently to be made upon

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the account, and so to go on to a hearing of the accounts.

54. In all suits where it shall appear, upon the hearing of the cause, that the plaintiff had not "probabilem causam litigandi," he shall pay unto the defendant his utmost costs, to be assessed by the court.

55. If any bill, answers, replication, or rejoinder, shall be found of an immoderate length, both the party and the counsel under whose hand it passeth shall be fined.

56. If there be contained in any bill, answer, or other pleadings, or any interrogatory, any matter libellous or slanderous against any that is not party to the suit, or against such as are parties to the suit, upon matters impertinent, or in derogation of the settled authorities of any of his majesty's court; such bills, answers, pleadings, or interrogatorie shall be taken off the file and suppressed, and the parties severally punished by commitment or ignominy, as shall be thought fit, for the abuse of the court; and the counsellors at law, who have set their hands, shall likewise receive reproof or punishment, if cause be.

57. Demurrers and pleas which tend to discharge the suit shall be heard first upon every day of orders, that the subject may know whether he shall need farther attendance or no.

58. A demurrer is properly upon matter defective, contained in the bill itself, and no foreign matter; but a plea is of foreign matter to discharge or

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stay the suit, as that the cause hath been formerly dismissed, or that the plaintiff is outlawed, or excommunicated; or there is another bill depending for the same cause, or the like: and such plea may be put in without oath, in case where the matter of the plea appear upon record; but if it be any thing that doth not appear upon record, the plea must be upon oath.

59. No plea of outlawry shall be allowed without pleading the record "sub pede sigilli;" nor plea of excommunication, without the seal of the ordinary.

60. Where any suit appeareth upon the bill to be of the natures which are regularly to be dismissed according to the fifteenth ordinance, such matter is to be set forth by way of demurrer.

61. Where an answer shall be certified insufficient, the defendant is to pay costs: and if a second answer be returned insufficient, in the points before certified insufficient, then double costs, and upon the third treble costs, and upon the fourth quadruple costs, and then to be committed also until he hath made a perfect answer, and to be examined upon interrogatories touching the points defective in his answer; but if any answer be certified sufficient, the plaintiff is to pay costs.

62. No insufficient answer can be taken hold of after replication put in, because it is admitted sufficient by the replication.

63. An answer to a matter charged as the defendant's own fact must be direct, without saying it

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is to his remembrance, or as he believeth, if it be laid down within seven years before; and if the defendant deny the fact, he must traverse it directly, and not by way of negative pregnant; as if a fact be laid to be done with divers circumstances, the defendant may not traverse it literally as it is laid in the bill, but must traverse the point of substance; so if he be charged with the receipt of one hundred pounds, he must traverse that he hath not received a hundred pounds, or any part thereof; and if he have received part, he must set forth what part.

64. If a hearing be prayed upon bill and answer, the answer must be admitted to be true in all points, and a decree ought not to be made, but upon hearing the answer read in court.

65. Where no counsel appears for the defendant at the hearing, and the process appears to have been served, the answer of such defendant is to be read in court.

66. No new matter is to be contained in any replication, except it be to avoid matter set forth in the defendant's answer.

67. All copies in chancery shall contain fifteen lines in every sheet thereof, written orderly and unwastefully, unto which shall be subscribed the name of the principal clerk of the office where it is written, or his deputy, for whom he will answer, for which only subscription no fee at all shall be taken.

68. All commissions for examination of witnesses shall be "super interr. inclusis" only, and no return of depositions into the court shall be received, but

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such only as shall be either compromised in one roll, subscribed with the name of the commissioners, or else in divers rolls, whereof each one shall be so subscribed.

69. If both parties join in commission, and upon warning given the defendant bring his commissioners, but produceth no witnesses, nor ministereth interrogatories, but after seek a new commission, the same shall not be granted: but nevertheless upon some extraordinary excuse of the defendant's default, he may have liberty granted by special order to examine his witnesses in court upon the former interrogatories, giving the plaintiff or his attorney notice, that he may examine also if he will.

70. The defendant is not to be examined upon interrogatories, except it be in very special cases, by express order of the court, to sift out some fraud or practice pregnantly appearing to the court, or otherwise upon offer of the plaintiff to be concluded by the answer of the defendant without any liberty to disprove such answer, or to impeach him after of perjury.

71. Decrees in other courts may be read upon hearing without the warrant of any special order: but no depositions taken in any other court are to be read but by special order; and regularly the court granteth no order for reading of depositions, except it be between the same parties, and upon the same title and cause of suit.

72. No examination is to be had of the credit of any witness but by special order, which is sparingly to be granted.

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73. Witnesses shall not be examined "in perpetuam rei memoriam," except it be upon the ground of a bill first put in, and answer thereunto made, and the defendant or his attorney made acquainted with the names of the witnesses that the plaintiff would have examined, and so publication to be of such witnesses; with this restraint nevertheless, that no benefit shall be taken of the depositions of such witnesses, in case they may be brought "viva voce" upon the trial, but only to be used in case of death before the trial, or age, or impotency, or absence out of the realm at the trial.

74. No witnesses shall be examined after publication, except it be by consent, or by special order, "ad informandam conscientiam judicis," and then to be brought close sealed up to the court to peruse or publish, as the court shall think good.

75. No affidavit shall be taken or admitted by any master of the chancery, tending to the proof or disproof of the title, or matter in question, or touching the merits of the cause; neither shall any such matter be colourably inserted in any affidavit for serving of process.

76. No affidavit shall be taken against affidavit, as far as the masters of the chancery can have knowledge; and if any such be taken, the latter affidavit shall not be used nor read in court.

77. In case of contempts grounded upon force or ill words, upon serving of process, or upon words of scandal of the court, proved by affidavit, the party is forthwith to stand committed; but for other con-

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tempts against the orders or decrees of the court, an attachment goes forth, first, upon an affidavit made, and then the party is to be examined upon interrogatories, and his examination referred; and if upon his examination he confess matter of contempt, he is to be committed; if not, the adverse party may examine witnesses to prove the contempt: and therefore if the contempt appear, the party is to be committed; but if not, or if the party that pursues the contempt do fail in putting in interrogatories, or other prosecution, or fail in the proof of the contempt, then the party charged with the contempt is to be discharged with good costs.

78. They that are in contempt, specially so far as proclamation of rebellion, are not to be heard, neither in that suit, nor any other, except the court of special grace suspend the contempt.

79. Imprisonment upon contempt for matters past may be discharged of grace, after sufficient punishment, or otherwise dispensed with: but if the imprisonment be for not performance of any order of the court in force, they ought not to be discharged except they first obey, but the contempt may be suspended for a time.

80. Injunctions, sequestration, dismissions, retainers upon dismissions, or final orders, are not to be granted upon petitions.

81. No former order made in court is to be altered, crossed, or explained upon any petition; but such orders may be stayed upon petition for a small stay, until the matter may be moved in court.

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82. No commission for examination of witnesses shall be discharged; nor no examinations or depositions shall be suppressed upon petition, except it be upon point of course of the court first referred to the clerks, and certificate thereupon.

83. No demurrer shall be overruled upon petition.

84. No "scire facias" shall be awarded upon recognizances not enrolled, nor upon recognizances enrolled, unless it be upon examination of the record with the writ; nor no recognizance shall be enrolled after the year, except it be upon special order from the lord chancellor.

85. No writ of "ne exeat regnum," prohibition, consultation, statute of Northampton, "certiorari" special, or "procedendo" special, or "certiorari" or "procedendo" general, more than once in the same cause; "habeas corpus," or "corpus cum causa, vi laica removend," or restitution thereupon, "de coronatore et viridario eligendo," in case of a moving "de homine repleg. assiz." or special patent, "de ballivo amovend', certiorari super præsentationibus fact. coram commissariis sewar'," or "ad quod dampnum," shall pass without warrant under the lord chancellor's hand, and signed by him, save such writs "ad quod dampnum," as shall be signed by master attorney.

86. Writs of privilege are to be reduced to a better rule, both for the number of persons that shall be privileged, and for the case of the privilege: and as for the number, it shall be set down by schedule: for the case, it is to be understood, that besides persons privileged as attendants upon the court, suitors and

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witnesses are only to have privilege, "eundo, redeundo, et morando," for their necessary attendance, and not otherwise; and that such writ of privilege dischargeth only an arrest upon the first process, but yet, where at such times of necessary attendance the party is taken in execution, it is a contempt to the court, and accordingly to be punished.

87. No "suplicavit" for the good behaviour shall be granted, but upon articles grounded upon the oath of two at the least, or certificate upon any one justice of assize, or two justices of the peace, with affidavit that it is their hands, or by order of the star-chamber, or chancery, or other of the king's courts.

88. No recognizance of the good behaviour, or the peace, taken in the country, and certified into the petty bag, shall be filed in the year without warrant from the lord chancellor.

89. Writs of "ne exeat regnum" are properly to be granted according to the suggestion of the writ, in respect of attempts prejudicial to the king and state, in which case the lord chancellor will grant them upon prayer of any the principal secretaries without cause shewing, or upon such information as his lordship shall think of weight: but otherwise also they may be granted, according to the practice of long time used, in case of interlopers in trade, great bankrupts, in whose estate many subjects are interested, or other cases that concern multitudes of the king's subjects, also in case of duels, and divers others.

90. All writs, certificates, and whatsoever other

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process " ret. coram Rege in Canc." shall be brought into the chapel of the rolls, within convenient time after the return thereof, and shall be there filed upon their proper files and bundles as they ought to be; except the depositions of witnesses, which may remain with any of the six clerks by the space of one year next after the cause shall be determined by decree, or otherwise be dismissed.

91. All injunctions shall be enrolled, or the transcript filed, to the end that if occasion be, the court may take order to award writs of " scire facias" thereupon, as in ancient time hath been used.

92. All days given by the court to sheriffs to return their writs, or bring in their prisoners upon writs of privilege, or otherwise between party and party, shall be filed, either in the register's office, or in the petty-bag respectively; and all recognisances taken to the king's use, or unto the court, shall be duly inrolled in convenient time, with the clerks of the inrollment, and calendars made of them, and the calendars every Michaelmas term to be presented to the lord chancellor.

93. In case of suits upon the commissions for charitable uses, to avoid charge, there shall need no bill, but only exceptions to the decree, and answer forthwith to be made thereunto; and thereupon, and upon sight of the inquisition, and the decree brought unto the lord chancellor by the clerk of the petty-bag, his lordship, upon perusal thereof, will give order under his hand for an absolute decree to be drawn up.

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94. Upon suit for the commission of sewers, the names of those that are desired to be commissioners are to be presented to the lord chancellor in writing; then his lordship will send the names of some privy counsellor, lieutenant of the shire, or justices of assize, being resident in the parts for which the commission is prayed, to consider of them, that they be not put in for private respects; and upon the return of such opinion, his lordship will give farther order for the commission to pass.

95. No new commission of sewers shall be granted while the first is in force, except it be upon discovery of abuse or fault in the first commissioners, or otherwise upon some great or weighty ground.

96. No commission of bankrupt shall be granted but upon petition first exhibited to the lord chancellor, together with names presented, of which his lordship will take consideration, and always mingle some learned in the law with the rest; yet so as care be taken that the same parties be not too often used in commissions; and likewise care is to be taken that bond with good surety be entered into, in 200*l.* at least, to prove him a bankrupt.

97. No commission of delegates in any cause of weight shall be awarded, but upon petition preferred to the lord chancellor, who will name the commissioners himself, to the end they may be persons of convenient quality, having regard to the weight of the cause, and the dignity of the court from whence the appeal is.

98. Any man shall be admitted to defend "in

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forma pauperis," upon oath, but for plaintiffs they are ordinarily to be referred to the court of requests, or to the provincial councils, if the case arise in those jurisdictions, or to some gentlemen in the country, except it be in some special cases of commisseration, or potency of the adverse party.

99. Licences to collect for losses by fire or water are not to be granted, but upon good certificate; and not for decays of suretyship or debt, or any other casualties whatsoever; and they are rarely to be renewed; and they are to be directed ever unto the county where the loss did arise, if it were by fire, and the counties that abut upon it, as the case shall require; and if it were by sea, then unto the county where the port is, from whence the ship went, and to some sea-counties adjoining.

100. No exemplification shall be made of letters patents, "inter alia," with omission of the general words; nor of records made void or cancelled; nor of the decrees of this court not inrolled; nor of depositions by parcel and fractions, omitting the residue of the depositions in court, to which the hand of the examiner is not subscribed; nor of records of the court not being inrolled or filed; nor of records of any other court, before the same be duly certified to this court, and orderly filed here; nor of any records upon the sight and examination of any copy in paper, but upon sight and examination of the original.

101. And because time and experience may dis-

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cover some of these rules to be inconvenient, and some other to be fit to be added; therefore his lordship intendeth in any such case from time to time to publish any such revocations or additions.

AN EXPOSTULATION TO THE LORD CHIEF JUSTICE COKE.

MY VERY GOOD LORD,

Though it be true, that "he who considereth the wind and the rain, shall neither sow nor reap;" yet "there is a season for every action," and so "there is a time to speak, and a time to keep silence." There is a time when the words of a poor simple man may profit; and that poor man in "The Preacher," which delivered the city by his wisdom, found that without this opportunity the owner both of wisdom and eloquence lose but their labour, and cannot charm the deaf adder. God therefore, before his Son that bringeth mercy, sent his servant the trumpeter of repentance to level every high hill, to prepare the way before him, making it smooth and straight: and as it is in spiritual things, where Christ never comes before his way-maker hath laid even the heart with sorrow and repentance, since self-conceited and proud persons think themselves too good and too wise to learn of their inferiors, and therefore need not the physician, so in the rules of earthly wisdom, it is not possible for nature to attain any mediocrity

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of perfection, before she be humbled by knowing herself and her own ignorance. Not only knowledge, but also every other gift, which we call the gifts of fortune, have power to puff up earth: afflictions only level these mole-hills of pride, plough the heart, and make it fit for wisdom to sow her seed, and for grace to bring forth her increase. Happy is that man therefore, both in regard of heavenly and earthly wisdom, that is thus wounded to be cured, thus broken to be made straight; thus made acquainted with his own imperfections that he may be perfected.

Supposing this to be the time of your affliction, that which I have propounded to myself is, by taking this seasonable advantage, like a true friend, though far unworthy to be counted so, to shew you your true shape in a glass; and that not in a false one to flatter you, nor yet in one that should make you seem worse than you are, and so offend you; but in one made by the reflection of your own words and actions; from whose light proceeds the voice of the people, which is often not unfitly called the voice of God. But therein, since I have purposed a truth, I must intreat liberty to be plain, a liberty that at this time I know not whether or no I may use safely, I am sure at other times I could not; yet of this resolve yourself, it proceedeth from love and a true desire to do you good; that you knowing the general opinion, may not altogether neglect or contemn it, but mend what you find amiss in yourself, and retain what your judgment shall approve; for

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to this end shall truth be delivered as naked as if yourself were to be anatomised by the hand of opinion. All men can see their own profit, that part of the wallet hangs before. A true friend (whose worthy office I would perform, since, I fear, both yourself and all great men want such, being themselves true friends to few or none) is first to shew the other, and which is from your eyes.

First therefore behold your errors. In discourse you delight to speak too much, not to hear other men; this, some say, becomes a pleader not a judge; for by this sometimes your affections are entangled with a love of your own arguments, though they be the weaker; and rejecting of those, which, when your affections were settled, your own judgment would allow for strongest. Thus while you speak in your own element, the law, no man ordinarily equals you; but when you wander, as you often delight to do, you wander indeed, and give never such satisfaction as the curious time requires. This is not caused by any natural defect, but first for want of election, when you having a large and fruitful mind, should not so much labour what to speak, as to find what to leave unspoken: rich soils are often to be weeded.

Secondly, You cloy your auditory when you would be observed; speech must be either sweet or short.

Thirdly, You converse with books, not men, and books especially human; and have no excellent choice with men, who are the best books: for a

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man of action and employment you seldom converse with, and then but with your underlings; not freely, but as a schoolmaster with his scholars, ever to teach, never to learn, : but if sometimes you would in your familiar discourse hear others, and make election of such as know what they speak, you should know many of these tales you tell to be but ordinary; and many other things, which you delight to repeat and serve in for novelties, to be but stale. As in your pleadings you were wont to insult over misery, and to inveigh bitterly at the persons, which bred you many enemies, whose poison yet swelleth, and the effects now appear, so are you still wont to be a little careless in this point, to praise or disgrace upon slight grounds, and that sometimes untruly; so that your reproofs or commendations are for the most part neglected and contemned; when the censure of a judge, coming slow but sure, should be a brand to the guilty, and a crown to the virtuous. You will jest at any man in public, without respect of the person's dignity or your own: this disgraceth your gravity, more than it can advance the opinion of your wit; and so do all actions which we see you do directly with a touch of vain-glory, having no respect to the true end. You make the law to lean too much to your opinion, whereby you shew yourself to be a legal tyrant, striking with that weapon where you please, since you are able to turn the edge any way: for thus the wise master of the law gives warning to young students, that they should be wary, lest, while they hope to be instructed by

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your integrity and knowledge, they should be deceived with your skill armed with authority. Your too much love of the world is too much seen, when having the living of a thousand, you relieve few or none: the hand that has taken so much, can it give so little? Herein you shew no bowels of compassion, as if you thought all too little for yourself; or that God hath given you all that you have, if you think wealth to be his gift, I mean that you get well, for I know sure the rest is not, only to that end you should still gather more, and never be satisfied; but try how much you would gather, to account for all at the great and general audit-day. We desire you to amend this, and let your poor tenants in Norfolk find some comfort; where nothing of your estate is spent towards their relief, but all brought up hither, to the impoverishing of your country.

In your last, which might have been your best, piece of service to the state, affectioned to follow that old rule, which giveth justice leaden heels and iron hands, you used too many delays till the delinquents hands were loosed, and yours bound: in that work you seemed another Fabius, where the humour of Marcellus would have done better; what need you have sought more evidences than enough? while you pretended the finding out of more, missing your aim, you discredited what you had found. This best judgments think; though you never used such speeches as are fathered upon you, yet you might well have done it, and but rightly; for this crime was second to none, but the powder-plot: that would have blown

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up all at one blow, a merciful cruelty; this would have done the same by degrees, a lingring but a sure way; one might by one be called out, till all opposers had been removed.

Besides, that other plot was scandalous to Rome, making popery odious in the sight of the whole world; this hath been scandalous to the truth of the whole gospel; and since the first nullity to this instant, when justice hath her hands bound, the devil could not have invented a more mischievous practice to our state and church than this hath been, is, and is like to be. God avert the evil.

But herein you committed another fault: that as you were too open in your proceedings, and so taught them thereby to defend themselves; so you gave them time to undermine justice, and to work upon all advantages both of affections, and honour, and opportunity, and breach of friendship; which they have so well followed, sparing neither pains nor costs, that it almost seemeth an higher offence in you to have done so much indeed, than that you have done no more: you stopt the confessions and accusations of some, who perhaps, had they been suffered, would have spoken enough to have removed some stumbling-blocks out of your way; and that you did not this in the favour of any one, but of I know not what present unadvised humours, supposing enough behind to discover all; which fell not out so. Howsoever, as the apostle saith in another case, you "went not rightly to the truth;" and therefore, though you were to be commended for what you did, yet you were to

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be reprehended for many circumstances in the doing; and doubtless God hath an eye in this cross to your negligence, and the briers are left to be pricks in your sides and thorns in your eyes. But that which we commend you for, are those excellent parts in nature, and knowledge in the law, which you are endowed withal; but these are only good in their good use. Wherefore we thank you heartily for standing stoutly in the commonwealth's behalf; hoping it proceedeth not from a disposition to oppose greatness, as your enemies say, but to do justice, and deliver truth indifferently without respect of persons; and in this we pray for your prosperity, and are sorry that your good actions should not always succeed happily. But in the carriage of this you were faulty; for you took it in hand in an evil time, both in respect of the present business which was interrupted, and in regard of his present sickness whom it concerned, whereby you disunited your strength, and made a gap for the enemies to pass out at, and to return and assault you.

But now since the case so standeth, we desire you to give way to power, and so to fight that you be not utterly broken, but reserved intirely to serve the commonwealth again, and to do what good you can, since you cannot do all the good you would; and since you are fallen upon this rock, cast out the goods to save the bottom; stop the leaks and make towards land; learn of the steward to make friends of the unrighteous mammon. Those Spaniards in Mexico who were chased of the Indians, tell us what

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to do with our goods in our extremity; they being to pass over a river in their flight, as many as cast away their gold swam over safe; but some more covetous, keeping their gold, were either drowned with it, or overtaken and slain by the savages: you have received, now learn to give. The beaver learns us this lesson, who being hunted for his stones, bites them off: you cannot but have much of your estate, pardon my plainness, ill got; think how much of that you never spake for, how much by speaking unjustly or in unjust causes. Account it then a blessing of God, if thus it may be laid out for your good, and not left for your heir, to hasten the wasting of much of the rest, perhaps of all: for so we see God oftentimes proceeds in judgment with many hasty gatherers: you have enough to spare, being well laid, to turn the tide, and fetch all things again. But if you escape, I suppose it worthy of an "If," since you know the old use, that none called in question must go away uncensured, yet consider that accusations make wounds, and leave scars; and though you see the toil behind your back, yourself free, and the covert before, yet remember there are stands: trust not a reconciled enemy; but think the peace is but to secure you for farther advantage, or expect a second and a third encounter; the main battle, the wings are yet unbroken, they may charge you at an instant, or death before them; walk therefore circumspectly, and if at length, by means of our endeavours and yours, you recover the favour that you have lost; give God the glory in action, not in words only; and

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remember us with sense of your past misfortune, whose estate hath, and may hereafter lie in the power of your breath.

There is a great mercy in dispatch, delays are tortures, wherewith by degrees we are rent out of our estates;* do not you, if you be restored, as some others do, fly from the service of virtue to serve the time, as if they repented their goodness, or meant not to make a second hazard in God's house; but rather let this cross make you zealous in God's cause, sensible in ours, and more sensible in all; which express thus. You have been a great enemy to papists, if you love God be so still, but more indeed than heretofore; for much of your zeal was heretofore wasted in words: call to remembrance that they were the persons that prophesied of that cross of yours long before it happened; they saw the storm coming, being the principal contrivers and furtherers of the plot, the men that blew the coals, heat the iron, and made all things ready; they owe you a good turn, and will, if they can, pay it you; you see their hearts by their deeds, prove then your faith so to: the best good work you can do, is to do the best you can against them, that is, to see the law severely, justly, and diligently executed.

And now we beseech you, my lord, be sensible both of the stroke and hand that striketh; learn of

* My lord Bacon observes elsewhere, that the Scripture saith, there be that turn judgment into wormwood; and saith he, surely there be "also that turn it into vinegar; for injustice maketh it bitter, and delays make it sour." ESSAY LVI. Vol. I. p. 180.

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David to leave Shimei, and call upon God; he hath some great work to do, and he prepareth you for it; he would neither have you faint, nor yet bear this cross with a stoical resolution: there is a Christian mediocrity worthy of your greatness. I must be plain, perhaps rash; had some notes which you had taken at sermons been written in your heart to practise, this work had been done long ago, without the envy of your enemies; but when we will not mind ourselves, God, if we belong to him, takes us in hand; and because he seeth that we have unbridled stomachs, therefore he sends outward crosses, which, while they cause us to mourn, do comfort us, being assured testimonies of his love that sends them. To humble ourselves therefore before God is the part of a Christian; but for the world and our enemies the counsel of the poet is apt,

"Tu ne cede malis, sed contra audentior ito."

The last part of this counsel you forget, yet none need be ashamed to make use of it, that so being armed against casualties, you may stand firm against the assaults on the right hand, and on the left. For this is certain, the mind that is most prone to be puft up with prosperity, is most weak and apt to be dejected with the least puff of adversity. Indeed she is strong enough to make an able man stagger, striking terrible blows: but true Christian wisdom gives us armour of proof against all assaults, and teacheth us in all estates to be content: for though she cause our truest friends to declare themselves

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our enemies; though she give heart then to the most cowardly to strike us; though an hour's continuance countervails an age of prosperity; though she cast in our dish all that ever we have done; yet hath she no power to hurt the humble and wise, but only to break such as too much prosperity hath made stiff in their own thoughts, but weak indeed; and fitted for renewing: when the wise rather gather from thence profit and wisdom; by the example of David, who said, "Before I was chastised I went astray." Now then he that knoweth the right way, will look better to his footing. Cardan saith, that weeping, fasting, and sighing, are the chief purges of grief; indeed naturally they do assuage sorrow: but God in this case is the only and best physician; the means he hath ordained are the advice of friends, the amendment of ourselves: for amendment is both physician and cure. For friends, although your lordship be scant; yet I hope you are not altogether destitute; if you be, do but look upon good books: they are true friends, that will neither flatter nor dissemble: be you but true to yourself, applying that which they teach unto the party grieved, and you shall need no other comfort nor counsel. To them, and to God's holy Spirit, directing you in the reading of them, I commend your lordship; beseeching him to send you a good issue out of these troubles, and from henceforth to work a reformation in all that is amiss, and a resolute perseverance, proceeding, and growth, in all that is good; and that for his glory, the bettering of yourself, this church, and

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commonwealth; whose faithful servant whilst you remain,

I remain a faithful servant to you,

FR. BACON.

TO THE KING, ABOUT THE COMMENDAMS.

MAY IT PLEASE YOUR MOST EXCELLENT MAJESTY,

I AM not swift to deliver any thing to your majesty before it be well weighed. But now that I have informed myself of as much as is necessary touching this proceeding of the judges to the argument of the Commendams, notwithstanding your majesty's pleasure signified by me, upon your majesty's commandment in presence of my lord chancellor and the bishop of Winchester, to the contrary, I do think it fit to advertise your majesty what hath passed; the rather, because I suppose the judges, since they performed not your commandment, have at least given your majesty their reasons of failing therein; I being to answer for the doing your majesty's commandments, and they for the not doing.

I did conceive, that in a cause that concerned your majesty and your royal power, the judges having heard your attorney-general argue the Saturday before, would of themselves have taken farther time to be advised.

And, if I fail not in memory, my lord Coke received from your majesty's self, as I take it, a precedent commandment in Hiliary term, that both in the "rege inconsulto," and in the Commendams, your

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attorney should be heard to speak, and then stay to be made of farther proceedings, till my lord had spoken with your majesty.

Nevertheless, hearing that the day appointed for the judges argument held, contrary to my expectation, I sent on Thursday in the evening, having received your majesty's commandment but the day before in the afternoon, a letter to my lord Coke; whereby I let him know, that upon some report of my lord of Winchester, who by your commandment was present at my argument of that which passed, it was your majesty's express pleasure, that no farther proceedings should be, until you had conferred with your judges: which your majesty thought to have done at your being now last in town; but by reason of your many and weighty occasions, your princely times would not serve; and that it was your pleasure he should signify so much to the rest of the judges, whereof his lordship might not fail. His answer by word to my man was, that it were good the rest of the judges understood so much from myself: whereupon I, that cannot skill of scruples in matter of service, did write on Friday three several letters of like content to the judges of the common pleas, and the barons of the exchequer, and the other three judges of the king's bench, mentioning in that last my particular letter to my lord chief justice.

This was all I did, and thought all had been sure; in so much as the same day being appointed in chancery for your majesty's great cause, followed by my lord Hunsden. I writ two other letters to both the chief justices, to put them in mind of assist-

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ing my lord chancellor at the hearing. And when my lord chancellor himself took some notice upon that occasion openly in the chancery, that the Commendams could not hold presently after, I heard the judges were gone about the Commendams; which I thought at first had been only to adjourn the court, but I heard after that they proceeded to argument.

In this their doing, I conceive they must either except to the nature of the commandment, or to the credence thereof; both which, I assure myself, your majesty will maintain.

For if they should stand upon the general ground, "Nulli negabimus, nulli differemus justitiam," it receiveth two answers. The one, that reasonable and mature advice may not be confounded with delay; and that they can well alledge when it pleaseth them. The other is, that there is a great difference between a case merely between subject and subject, and where the king's interest is in question directly or by consequence. As for the attorney's place and commission, it is as proper for him to signify the king's pleasure to the judges, as for the secretary to signify the same to the privy-council; and so it hath ever been.

These things were a little strange if there came not so many of them together, as the one maketh the other seem less strange: but your majesty hath fair occasions to remedy all with small aid; I say no more for the present.

I was a little plain with my lord Coke in these matters; and when his answer was, that he knew all these things; I said he could never profit too much

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in knowing himself and his duty. God ever preserve your majesty.

A MEMORIAL FOR HIS MAJESTY, CORRECTED WITH SIR FR. BACON'S OWN HAND, 1616.

It seemeth this year of the fourteenth of his majesty's reign, being a year of a kind of majority in his government, is consecrated to justice:* which as his majesty hath performed to his subjects in this late memorable occasion, so he is now to render and perform to himself, his crown and posterity.

That his council shall perceive by that which his majesty shall now communicate with them, that the mass of his business is continually prepared in his own royal care and cogitations, howsoever he produceth the same to light, and to act "per opera dierum."†

That his majesty shall make unto them now a declarative of two great causes, whereof he doubteth not they have heard by glimpses; the one concerning his high court of chancery, the other concerning the

* By the laws, several ages are assigned to persons for several purposes: and by the common law the fourteenth year is a kind of majority, and accounted an age of discretion. At that time a man may agree or disagree to a precedent marriage: the heir in socage may reject the guardian appointed by law, and choose a new one: and the woman at that age shall be out of ward, etc. *Stephens.*

† "Per opera dierum," alluding to the gradations Almighty God was pleased to observe in the creating of the world. In this paragraph Sir Francis Bacon insinuates, what he expressly declares, Vol. I. Essay XLVII. p. 162, that in all negotiations of difficulty a man must first prepare business, and so ripen it by degrees. *Stephens.*

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church and prelacy; but both of them deeply touching his prerogative and sovereignty, and the flowers of his crown.

That about the end of Hilary term last, there came to his majesty's ears, only by common voice and report, not without great rumour and wonder, that there was somewhat done in the King's Bench the last day of that term, whereby his chancery should be pulled down, and be brought in question for "præmunire"; being the most heinous offence after treason, and felony, and misprision of treason; and that the time should be when the chancellor lay at the point of death.

That his majesty was so far from hearing of this by any complaint from his chancellor, who then had given over worldly thoughts, that he wrote letters of comfort to him upon this accident, before he heard from him; and for his attorney, his majesty challenged him for not advertising him of that, of which it was proper for his majesty to be informed from him.

That his majesty being sensible of this so great novelty and perturbation in his courts of justice, nevertheless used this method and moderation, that before he would examine this great affront and disgrace offered to his chancery and chancellor, he would first inform himself whether the chancery or chancellor were in fault; and whether the former precedents of chancery did warrant the proceedings there after judgment passed at common law, which was the thing in question, and thereupon his majesty

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called his learned counsel to him, and commanded them to examine the precedents of chancery, and to certify what they found: which they did; and by their certificate it appeareth, that the precedents of that kind were many and precise in the point, and constant, and in good times, and allowed many times by the judges themselves.

That after this his majesty received from the lord chancellor a case, whereby the question was clearly set down and contained within the proper bounds of the present doubt; being, Whether upon apparent matter of equity, which the judges of the law by their place and oath cannot meddle with or relieve, if a judgment be once passed at common law, the subject shall perish, or that the chancery shall relieve him; and whether there be any statute of "præmunire" or other, to restrain this power in the chancellor; which case, upon the request of the lord chancellor, his majesty likewise referred to his learned counsel, and the prince's attorney Mr. Walter was joined with them, who, upon great advice and view of the original records themselves, certified the chancery was not restrained by any statute in that case.

That his majesty again required his learned counsel to call the clerks of the king's bench to them, and to receive from them any precedents of indictments in the king's bench against the chancery for proceeding in the like case; who produced only two precedents, being but indictments offered or found, upon which there was no other proceeding; and the

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clerks said, they had used diligence and could find no more.

That his majesty, after he had received this satisfaction that there was ground for that the chancery had done, and that the chancery was not in fault, he thought then it was time to question the misdemeanor and contempt in scandalizing and dishonouring his justice in that high court of chancery in so odious a manner; and commanded his attorney-general, with the advice of the rest of his learned counsel, to prosecute the offenders in the star-chamber, which is done; and some of them are fled, and others stand out and will not answer.

That there resteth only one part more towards his majesty's complete information in this cause: which is to examine that which was done in open court the said last day of Hilary term, and whether the judges of the King's Bench did commit any excess of authority; or did animate the offenders otherwise than according to their duty and place; which inquiry, because it concerneth the judges of a court to keep order and decorum, his majesty thinketh not so convenient to use his learned counsel therein, but will commit the same to some of the council-table, and his learned counsel to attend them.

This declared, or what else his majesty in his own high wisdom shall think good; it will be fit time to have the certificate of the learned counsel openly read.

His majesty may, if he please, forbear to publish

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at this time at the table the committees; but signify his pleasure to themselves afterwards.

The committees named by his majesty, were the archbishop of Canterbury, secretary Lake, the chancellor of the exchequer, and the master of the rolls.

This report is to be prefixed, to be given in by Wednesday at night, that his majesty may communicate it with his council, and take farther order on Thursday thereupon, if his majesty be so pleased.

At this declaration, it is his majesty's direction, to the end things may appear to be the more evenly carried, that neither my lord chancellor nor my lord chief justice be present.

But then when his majesty entereth into the second declarative, my lord chancellor is to be called for: but my lord chief justice not; because it concerneth him.

For the second declarative: that his majesty hath reason to be offended and grieved, in that which passed touching the commendams, both in matter and manner: for the matter, that his majesty's religious care of the Church and of the prelacy, and namely, of his lords spiritual the bishops, may well appear, first, in that he hath utterly expelled those sectaries or inconformable persons that spurned at the government; secondly, that by a statute made in the first year of his reign, he hath preserved their livings from being wasted and dilapidated by long leases, and therein bound himself and his crown and

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succession; and lastly, that they see two bishops privy counsellors at the table, which hath not been of late years.

That agreeably to this his majesty's care and good affection, hearing that there was a case of the bishop of Lincoln's, wherein his majesty's supreme power of granting Commendams, which in respect of the exility of bishopricks is sometimes necessary, was questioned to be overthrown or weakened; he commanded his attorney-general, not only to have care to maintain it according to his place, but also that he should relate to his majesty how things passed; and did also command the bishop of Winchester to be present at the public argument of the case; and to report to his majesty the true state of that question, and how far it extended.

This being accordingly done; then upon report of the bishop of Winchester in presence of the lord chancellor, his majesty thought it necessary, that before the judges proceeded to declare their opinion they should have conference with his majesty, to the end to settle some course, that justice might be done, and his regal power, whereof his crown had been so long vested, not touched nor diminished: and thereupon commanded his attorney, who by his place ought properly to signify his majesty's pleasure to his judges, as his secretary doth to his privy council, in the presence of the lord chancellor and the bishop, to signify his pleasure to the judges, that because his majesty thought it needful to consult with them in that case before they proceeded to judgment;

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and that his majesty's business, as they all knew, was very great, and Midsummer term so near at hand, and the cause argued by his attorney so lately, they should put off the day till they might advise with his majesty at his next coming to town. That his majesty's attorney signified so much by his letters, the next day after he had received his commandment, to all the judges, and that in no imperious manner, but alledging the circumstances aforesaid, that the case was lately argued, his majesty's business great, another term at hand, etc.

Now followeth the manner that was held in this, which his majesty conceiveth was not only indiscreet, but presumptuous and contemptuous.

For first, they disobeyed this his majesty's commandment, and proceeded to public argument notwithstanding the same; and thought it enough to certify only their mind to his majesty.

Secondly, in a general letter under all their hands, howsoever it may be upon divided opinion, they alledge unto his majesty their oath; and that his majesty's commandment, for the attorney's letter was but the case that it was wrapped in, was against law; as if maturity and a deliberate proceeding were a delay, or that commandment of stay in respect of so high a question of state and prerogative, were like a commandment gotten by importunity, or in favour of a suitor.

Thirdly, above all, it is to be noted and justly doubted, that upon the contrary, in this that they have done, they have broken their oath; for their

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oath is to counsel the king when they shall be called; and if when the king calleth them to counsel, they will do the deed first, and give him counsel after, this is more than a simple refusal.

Lastly, it is no new thing upon divers particular occasions, of a far higher nature than the consulting with their sovereign about a cause of great moment, to put off days, and yet no breach of oath. And there was another fair passage well known to my lord Coke, that he might have used if it had pleased him; for that very day was appointed for the king's great cause in the chancery, both for my lord Hobart and him; which cause ought to have had precedence afore any private cause, as they would have this seem to be.

To this letter his majesty made a most princely and prudent answer, which I leave to itself.

Upon this declaration his majesty will be pleased to have the judges letter and his own letter read.

Then his majesty, for his part as I conceive, will be pleased to ask the advice of his council as well for the stay of the new day, which is Saturday next, as for the censure and reproof of the contempt passed: for though the judges are a reverend body, yet they are, as all subjects are, corrigible.

TO SIR GEORGE VILLIERS.

SIR,

I SEND his majesty a draught of the act of council concerning the judges letter, penned as near as I could to his majesty's instructions received in your

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presence. I then told his majesty my memory was not able to keep way with his; and therefore his majesty will pardon me for any omissions or errors, and be pleased to supply and reform the same. I am preparing some other materials for his majesty's excellent hand, concerning business that is coming on: for since his majesty hath renewed my heart within me, methinks I should double my endeavours. God ever preserve and prosper you. I rest

Your most devoted and bounden servant,

June 12, 1616. FR. BACON.

TOUCHING THE COMMENDAMS.

*AT WHITEHALL THE SIXTH OF JUNE, ANNO 1616.

Present the KING'S MAJESTY.

Lord Archbishop of Cant.	Lord Wotton.
Lord Chancellor.	Lord Stanhope.
Lord Treasurer.	Lord Fenton.
Lord Privy-Seal.	Mr. Vice-Chamberlain.
Lord Chamberlain.	Mr. Secretary Winwood.
Duke of Lenox.	Mr. Secretary Lake.
Lord Zouche.	Mr. Chancellor of the Ex-
Bishop of Winton.	chequer.
Lord Knollys.	Master of the Rolls.

His majesty having this day given order for

* It is very clear, that this is the act of council referred to in the preceding letter, and drawn up by Sir Francis Bacon: which, being written in a fair manner, I accidentally bought, and have corrected several errors therein. If any remain, as I believe the reader will think there doth; it is because I had no opportunity to peruse the council-books. *Stephens.*

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meeting of the council, and that all the judges, being twelve in number, should be sent for to be present; when the lords were sat, and the judges ready attending, his majesty came himself in person to council, and opened to them the cause of that assembly; which was: That he had called them together concerning a question that had relation to no private person, but concerned God and the King, the power of his crown, and the state of this Church whereof he was protector; and that there was no fitter place to handle it than at the head of his council-table: that there had been a question pleaded and argued concerning Commendams; the proceedings wherein had either been mis-reported or mis-handled; for his majesty a year since had received advertisements concerning the cause in two instances, by some that intrenched upon his prerogative royal in the general power of granting Commendams; and by others, that the doubt rested only upon a special nature of a Commendam, such as in respect of the incongruity and exorbitant form thereof might be questioned, without impeaching or weakening the general power of all.

Whereupon his majesty, willing to know the true state thereof, commanded the lord bishop of Winchester, and Mr. Secretary Winwood to be present at the next argument, and to report the state of the question and proceeding to his majesty. But Mr. Secretary Winwood being absent by occasion, the lord of Winchester only was present, and made information to his majesty of the particulars

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thereof, which his majesty commanded him to report to the board. Whereupon the lord of Winchester stood up and said, that serjeant Chiborne, who argued the cause against the Commendams, had maintained divers positions and assertions very prejudicial to his majesty's prerogative royal; as first, that the translation of bishops was against the canon law, and for authority vouched the canons of the council of Sardis; that the King had not power to grant Commendams, but in case of necessity; that there could be no necessity, because there could be no need for augmentation of living, for no man was bound to keep hospitality above his means; besides other parts of his argument tending to the overthrow of his majesty's prerogative in case of Commendams.

The lord of Winchester having made his report, his majesty resumed his former narrative, letting the lords know, that after the lord of Winton had made unto his majesty a report of that which passed at the argument of the cause, like in substance unto that which now had been made; his majesty apprehending the matter to be of so high a nature, commanded his attorney-general to signify his majesty's pleasure unto the lord chief justice; That in regard of his majesty's most weighty occasions, and for that his majesty held it necessary upon the lord of Winton's report, that his majesty be first consulted with, before the judges proceed to argue it; therefore the day appointed for the judges argument should be put off till they might speak with his majesty; and

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this letter of his majesty's attorney was, by his majesty's commandment, openly read as followeth, "in hæc verba."

"My Lord,

It is the king's express pleasure, that because his majesty's time would not serve to have conference with your lordship and his judges, touching the cause of Commendams, at his last being in town; in regard of his majesty's other most weighty occasions; and for that his majesty holdeth it necessary, upon the report which my lord of Winchester, who was present at the last arguments by his majesty's royal commandment, made to his majesty, that his majesty be first consulted with, ere there be any farther proceedings by arguments by any of the judges, or otherwise; therefore that the day appointed for the farther proceedings by arguments of the judges in that case, be put off till his majesty's farther pleasure be known, upon consulting with him; and to that end, that your lordship forthwith signify his commandment to the rest of the judges: whereof your lordship may not fail: and so I leave your lordship to God's goodness.

Your loving friend to command,

Fr. Bacon.

This Thursday afternoon,
April 25, 1616."

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That upon this letter received, the lord chief justice returned word to his majesty's said attorney by his servant; That it was fit the rest of his brethren should understand his majesty's pleasure immediately by letters from his said attorney to the judges of the several benches: and accordingly it was done; whereupon all the said judges assembled, and by their letter under their hands certified his majesty, that they held those letters, importing the signification aforesaid, to be contrary to law, and such as they could not yield to the same by their oath; and that thereupon they had proceeded at the day, and did now certify his majesty thereof: which letter of the judges his majesty also commanded to be openly read, the tenor whereof followeth, "in hæc verba."

"MOST DREAD AND MOST GRACIOUS SOVEREIGN,

IT may please your most excellent majesty to be advertised, that this letter here inclosed was delivered unto me your chief justice on Thursday last in the afternoon, by a servant of your majesty's attorney-general; and letters of the like effect were on the day following sent from him by his servant to us your majesty's justices of every of the courts at Westminster. We are and ever will be ready with all faithful and true heart, according to our bounden duties, to serve and obey your majesty, and think ourselves most happy to spend our times and abilities to do your majesty true and faithful service in this

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present case mentioned in this letter. What information hath been made unto you, whereupon Mr. Attorney doth ground his letter, from the report of the bishop of Winton, we know not; this we know, that the true substance of the cause summarily is thus; it consisteth principally upon the construction of two acts of parliament, the one of the twenty-fifth year of King Edward III. and the other of the twenty-fifth year of King Henry VIII. whereof your majesty's judges upon their oaths, and according to their best knowledge and learning, are bound to deliver their true understanding faithfully and uprightly; and the case between two for private interest and inheritance earnestly called on for justice and expedition. We hold it our duty to inform your majesty, that our oath is in these express words: That in case any letters come unto us contrary to law, that we do nothing by such letters but certify your majesty thereof, and go forth to do the law, notwithstanding the same letters. We have advisedly considered of the said letter of Mr. Attorney, and with one consent do hold the same to be contrary to law, and such as we could not yield to the same by our oath, assuredly persuading ourselves that your majesty being truly informed, that it standeth not with your royal and just pleasure to give way to them: and knowing your majesty's zeal to justice to be most renowned, therefore we have, according to our oaths and duties, at the very day prefixed the last term, proceeded, and thereof certified your majesty; and shall ever pray

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to the Almighty for your majesty in all honour, health and happiness long to reign over us.

Edw. Coke, Henry Hobart, Laur. Tanfield, Pet. Warburton, George Snigge, Ja. Altham, Ed. Bromley, John Croke, Humphry Winche, John Dodderidge, Augustin Nicholls, Robert Houghton.

Serjeants-Inn,
25th April, 1616."

His majesty having considered of this letter, by his princely letters returned answer, reporting himself to their own knowledge and experience, what princely care he hath ever had since his coming to the crown, to have justice duly administered to his subjects, with all possible expedition; and how far he was from crossing or delaying of justice, when the interest of any private person was questioned: but on the other side expressing himself, that where the case concerned the high powers and prerogatives of the crown, he would not endure to have them wounded through the sides of a private person; admonishing them also, lastly, of a custom lately entertained, of a greater boldness to dispute the high points of his majesty's prerogative in a popular and unlawful liberty of argument more than in former times: and making them perceive also how weak and impertinent the pretence of allegation of their oath was in a case of this nature, and how well it might have been spared; with many other weighty

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points in the said letter contained: which letter also by his majesty's appointment and commandment was publicly read "in hæc verba."

"James Rex,

Trusty and well-beloved counsellors, and trusty and well-beloved, we greet you well. We perceive by your letter, that you conceive the commandment given you by our attorney-general in our name to have proceeded upon wrong information: but if you list to remember what princely care we have ever had, since our coming to this crown, to see justice duly administered to our subjects, with all possible expedition; and how far we have ever been from urging the delay thereof in any sort, you may safely persuade yourselves that it was no small reason that moved us to send you that direction. You might very well have spared your labour in informing us of the nature of your oath; for although we never studied the common law of England, yet are we not ignorant of any points which belong to a king to know: we are therefore to inform you hereby, that we are far from crossing or delaying any thing which may belong to the interest of any private party in this case; but we cannot be contented to suffer the prerogative royal of our crown to be wounded through the sides of a private person: we have no care at all which of the parties shall win this process in this case, so that right prevail, and that justice be truly administered. But on the other side, we have reason to foresee that nothing be done in this case

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which may wound our prerogative in general; and therefore so that we may be sure that nothing shall be debated amongst you which may concern our general power of giving Commendams, we desire not the parties to have one hour's delay of justice: but that our prerogative should not be wounded in that regard for all times hereafter, upon pretext of private persons interest, we sent you that direction; which we account as well to be wounded if it be publicly disputed upon, as if any sentence were given against it: we are therefore to admonish you, that since the prerogative of our crown hath been more boldly dealt withal in Westminster-Hall, during the time of our reign, than ever it was before in the reigns of divers princes immediately preceding us, that we will no longer endure that popular and unlawful liberty; and therefore we were justly moved to send you that direction to forbear to meddle in a cause of so tender a nature, till we had farther thought upon it. We have cause indeed to rejoice of your zeal for your speedy execution of justice; but we would be glad that all our subjects might so find the fruits thereof, as that no pleas before you were of older date than this is. But as to your argument, which you found upon your oath, you give our predecessors, who first founded the oath, a very charitable meaning, in perverting their intention and zeal to justice, to make a weapon of it to use against their successors; for although your oath be, that you shall not delay justice between any private persons or parties, yet was it not meant

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that the king should thereby receive harm, before he be forewarned thereof; neither can you deny, but that every term you will out of your own discretions, for reasons known unto you, put off either the hearing or determining of any ordinary cause betwixt private persons till the next term following. Our pleasure therefore is, who are the head and fountain of justice under God in our dominions, and we out of our absolute power and authority royal do command you, that you forbear to meddle any farther in this plea till our coming to town, and that out of our own mouth you hear our pleasure in this business; which we do out of the care we have, that our prerogative may not receive an unwitting and indirect blow, and not to hinder justice to be administered to any private parties, which no importunities shall persuade us to move you in. Like as, only for the avoiding of the unreasonable importunity of suitors in their own particular, that oath was by our predecessors ordained to be ministered unto you: so we wish you heartily well to fare.

Postscript. You shall upon the receipt of this letter call our attorney-general unto you, who will inform you of the particular points which we are unwilling to be disputed of in this case."

This letter being read, his majesty resolved to take into his consideration the parts of the judges letter and other their proceedings in that cause, and the errors therein contained and committed; which errors his majesty did set forth to be both in matter

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and manner: in matter, as well by way of omission as commission; for omission, that it was a fault in the judges, that when they heard a counsellor at the bar presume to argue against his majesty's prerogative, which in this case was in effect his supremacy, they did not interrupt and reprove sharply that base and bold course of defaming or impeaching things of so high a nature by discourse; especially since his majesty hath observed, that ever since his coming to the crown, the popular sort of lawyers have been the men, that most affrontedly in all parliaments have trodden upon his prerogative: which being most contrary to their vocation of any men, since the law or lawyers can never be respected, if the king be not reverenced; it doth therefore best become the judges of any, to check and bridle such impudent lawyers, and in their several benches to disgrace them that bear so little respect to their king's authority and prerogative: that his majesty had a double prerogative, whereof the one was ordinary and had relation to his private interest, which might be, and was every day, disputed in Westminster-Hall; the other was of an higher nature, referring to his supreme and imperial power and sovereignty, which ought not to be disputed or handled in vulgar argument: but that of late the courts of the common law are grown so vast and transcendent, as they did both meddle with the king's prerogative, and had incroached upon all other courts of justice; as the high commission, the councils established in Wales and at York, the court of requests.

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Concerning that which might be termed commission, his majesty took exception at the judges letter both in matter and form: for matter, his majesty plainly demonstrated, that whereas it was contained in the judges letter, that the signification of his majesty's letter as aforesaid was contrary to law, and not agreeable to the oath of a judge; that could not be: first, for that the putting off any hearing or proceeding upon any just or necessary cause, is no denying or delaying of justice, but wisdom and maturity of proceeding; and that there cannot be a more just and necessary cause of stay, than the consulting with the king, where the cause concerns the crown; and that the judges did daily put off causes upon lighter occasions; and likewise his majesty did desire to know of the judges, how his calling them to consult with him was contrary to law, which they could never answer unto.

Secondly, That it was no bare supposition or surmise, that this cause concerned the king's prerogative; for that it had been directly and plainly disputed at the bar; and the very disputing thereof in a public audience is both dangerous and dishonourable to his majesty.

Thirdly, That the manner of the putting off that which the king required, was not infinite nor long time, but grounded upon his majesty's weighty occasions, which were notorious; by reason whereof he could not speak with the judges before the argument; and that there was a certain expectation of his majesty's return at Whitsuntide: and likewise that the

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cause had been so lately handled and argued, and would not receive judgment by the Easter term next, as the judges themselves afterwards confessed.

And afterwards, because there was another just cause of absence for the two chief justices, for that they ought to have assisted the lord chancellor the same day in a great cause of the king's followed by the lord Hunsdon against the lord William Howard in chancery; which cause of the king's, especially being so worthy, ought to have had precedency before any cause betwixt party and party. Also whereas it was contained in the judges letter that the cause of Commendams was but a cause of private interest between party and party, his majesty shewed plainly the contrary; not only by the argument of serjeant Chiborne, which was before his commandment, but by the argument of the judges themselves, namely justice Nicholls, which was after; but especially since one of the parties is a bishop who pleaded for the Commendams by the virtue of his majesty's prerogative.

Also whereas it was contained in the judges letter, that the parties called upon them earnestly for justice, his majesty conceived it to be but pretence; urging them to prove that there was any solicitation by the parties for expedition, otherwise than in an ordinary course of attendance; which they could not prove.

As for the form of the letter, his majesty noted, that it was a new thing, and very indecent and unfit for subjects to disobey the king's commandment,

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but most of all to proceed in the mean time, and to return to him a bare certificate; whereas they ought to have concluded with the laying down and representing of their reasons modestly to his majesty, why they should proceed; and so to have submitted the same to his princely judgment, expecting to hear from him whether they had given him satisfaction.

After this his majesty's declaration, all the judges fell down upon their knees, and acknowledged their error for matter and form, humbly craving his majesty's gracious favour and pardon for the same.

But for the matter of the letter, the lord chief justice of the king's bench entered into a defence thereof; the effect whereof was, that the stay required by his majesty was a delay of justice, and therefore contrary to law and the judges oath; and that the judges knew well amongst themselves, that the case, as they meant to handle it, did not concern his majesty's prerogative of granting of Commendams: and that if the day had not held by the not coming of the judges, the suit had been discontinued, which had been a failing of justice, and that they could not adjourn it, because Mr. Attorney's letter mentioned no day certain, and that an adjournment must always be to a day certain.

Unto which answer of the chief justice his majesty did reply; that for the last conceit, it was mere sophistry, for that they might in their discretions have prefixed a convenient day, such as there might have been time for them to consult with his

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majesty before, and that his majesty left that point of form to themselves.

And for that other point, that they should take upon them peremptorily to discern whether the plea concerned the king's prerogative, without consulting with his majesty first, and informing his princely judgment, was a thing preposterous; for that they ought first to have made that appear to his majesty, and so to have given him assurance thereof upon consulting with him.

And for the matter, that it should be against the law and against their oath, his majesty said he had spoken enough before; unto which the lord chief justice in effect had made no answer, but only insisted upon the former opinion; and therefore the king required the lord chancellor to deliver his opinion upon that point, Whether the stay that had been required by his majesty were contrary to law, or against the judges oath.

The chancellor stood up and moved his majesty, that because this question had relation to matter of law, his majesty would be informed by his learned counsel first, and they first to deliver their opinions, which his majesty commanded them to do.

Whereupon his majesty's attorney-general gave his opinion, that the putting off of the day in manner as was required by his majesty, to his understanding was without all scruple no delay of justice, nor danger of the judges oath; insisting upon some of the reasons which his majesty had formerly opened, and adding, that the letter he had formerly written

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by his majesty's command was no imperious letter; as to say his majesty for certain causes, or for causes known to himself, would have them put off the day: but fairly and plainly expressed the causes unto them; for that the king conceived upon my lord of Winton's report, that the cause concerned him; and that his majesty would have willingly spoken with them before, but by reason of his important business could not; and therefore required a stay till they might conveniently speak with him, which they knew could not be long. And in conclusion of his speech wished the judges to consider seriously with themselves, whether they were not in greater danger of breach of their oaths by the proceedings, than they would have been by their stay; for that it is part of their oath to counsel his majesty when they are called; and if they will proceed first in a business whereupon they are called to counsel, and will counsel him when the matter is past, it is more than a simple refusal to give him counsel; and so concluded his speech, and the rest of the learned counsel consented to his opinion.

Whereupon the lord chief justice of the king's bench, answering nothing to the matter, took exception that the king's counsel learned should plead or dispute with the judges; for he said they were to plead before judges, and not to dispute with them: Whereunto the king's attorney replied, that he found that exception strange; for that the king's learned counsel were by oath and office, and much

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more where they had the king's express commandment, without fear of any man's face, to proceed or declare against any the greatest peer or subject of the kingdom; and not only any subject in particular, but any body of subjects or persons, were they judges, or were they of an upper or lower house of parliament, in case they exceed the limits of their authority, or took any thing from his majesty's royal power or prerogative; and so concluded, that this challenge, and that in his majesty's presence, was a wrong to their places, for which he and his fellows did appeal to his majesty for reparation. And thereupon his majesty did affirm, that it was their duty so to do, and that he would maintain them therein, and took occasion afterward again to speak of it; for when the lord chief justice said, he would not dispute with his majesty, the king replied, That the judges would not dispute with him, nor his learned counsel might not dispute with them: so whether they did well or ill, it must not be disputed.

After this the lord chancellor declared his mind plainly and clearly, that the stay that had been by his majesty required, was not against the law, nor a breach of the judges oath, and required that the judges oath itself might be read out of the statute, which was done by the king's solicitor, and all the words thereof weighed and considered.

Thereupon his majesty and the lords thought good to ask the judges severally their opinions; the

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question being put in this manner; Whether, if at any time, in a case depending before the judges, his majesty conceived it to concern him either in power or profit, and thereupon required to consult with them, and that they should stay proceedings in the mean time, they ought not to stay accordingly? They all, the lord chief justice only excepted, yielded that they would, and acknowledged it to be their duties so to do; only the lord chief justice of the king's bench said for answer, that when the case should be, he would do that which should be fit for a judge to do. And the lord chief justice of the common pleas, who had assented with the rest, added, that he would ever trust the justice of his majesty's commandment. After this was put to a point, his majesty thought fit, in respect of the farther day of argument, appointed the Saturday following for the Commendams, to know from his judges what he might expect from them concerning the same. Whereupon the lord of Canterbury breaking the case into some questions, his majesty did require his judges to deal plainly with him, whether they meant in their argument to touch the general power of granting Commendams, yea or no? Whereupon all the said judges did promise and assure his majesty, that in the argument of the said case of Commendams, they would speak nothing which should weaken or draw into doubt his majesty's prerogative for granting of them; but intended particularly to insist upon the points of "lapse" and other judicial points of this case, which they conceived to be of a

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form differing from all other Commendams which have been practised.

The judges also went farther, and did promise his majesty, that they would not only abstain from speaking any thing to weaken his majesty's prerogative of Commendams, but would directly and in plain terms affirm the same, and correct the erroneous and bold speeches which had been used at the bar in derogation thereof.

Also the judges did in general acknowledge and profess with great forwardness, that it was their duty, if any counsellor at the law presumed at any time to call in question his majesty's high prerogative, that they ought to reprehend them and silence them; and all promised so to do hereafter.

Lastly, the two judges that were then next to argue, Mr. Justice Dodderidge and Mr. Justice Winch, opened themselves unto his majesty thus far; that they would insist chiefly upon the "lapse," and some points of uncertainty, repugnancy, and absurdity, being peculiar to this Commendam; and that they would shew their dislike of that which had been said at the bar for the weakening of the general power; and Mr. Justice Dodderidge said he would conclude for the king, that the church was void and in his majesty's gift; he also said that the king might give a Commendam to a bishop either before or after his consecration, and that he might give it him during his life, or for a certain number of years.

The judges having thus far submitted and declared

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themselves, his majesty commanded them to keep the bounds and limits of their several courts, not to suffer his prerogative to be wounded by rash and unadvised pleading before them, or by new invention of law; for as he well knew the true and ancient common law is the most favourable for kings of any law in the world; so he advised them to apply their studies to that ancient and best law, and not to extend the power of any other of their courts beyond their due limits; following the precedents of their best ancient judges in the times of the best government; and that then they might assure themselves that he, for his part, in his protection of them, and expediting of justice, would walk in the steps of ancient and best kings. Whereupon he gave them leave to proceed in their argument.

When the judges were removed, his majesty that had forborn to ask the voices and opinions of his council before the judges, because he would not prejudicate the freedom of the judges opinion, concerning whether the stay of proceedings, that had been by his majesty required, could by any construction be thought to be within the compass of the judges oath, which they had heard read unto them, did then put the question to his council; who all with one consent did give opinion, that it was far from any colour or shadow of such interpretation, and that it was against common sense to think the contrary, especially since there is no mention made in their oath of delay of justice, but only that they should not deny justice, nor be moved by any of the

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King's letters, to do any thing contrary to law or justice.

G. Cant. Tho. Ellesmere, Canc. Th. Suffolk, E. Worcester, Pembroke, Nottingham, Lenox, W. Knollys, John Digby, Ralph Winwood, Tho. Lake, Fulke Greville, Jul. Cæsar, Fra. Bacon.

A TRUE REMEMBRANCE OF THE ABUSE I RECEIVED OF MR. ATTORNEY GENERAL * PUBLICLY IN THE EXCHEQUER THE FIRST DAY OF TERM; FOR THE TRUTH WHEREOF I REFER MYSELF TO ALL THAT WERE PRESENT.

I moved to have a reseizure of the lands of George More, a relapsed recusant, a fugitive, and a practising traitor; and shewed better matter for the queen against the discharge by plea, which is ever with a "salvo jure." And this I did in as gentle and reasonable terms as might be.

Mr. Attorney kindled at it, and said, "Mr. Bacon, if you have any tooth against me, pluck it out; for it will do you more hurt than all the teeth in your head will do you good." I answered coldly in these very words; Mr. Attorney, I respect you:

* Edward Coke, knighted by king James at Greenwich in 1603; and made lord chief justice of the common pleas, 30 June, 1606.

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I fear you not: and the less you speak of your own greatness, the more I will think of it.

He replied, "I think scorn to stand upon terms of greatness towards you, who are less than little; less than the least;" and other such strange light terms he gave me, with that insulting, which cannot be expressed.

Herewith stirred, yet I said no more but this: Mr. Attorney, do not depress me so far; for I have been your better, and may be again, when it please the queen.

With this he spake, neither I nor himself could tell what, as if he had been born attorney general; and in the end bade me not meddle with the queen's business, but with mine own; and that I was unsworn, etc. I told him, sworn or unsworn was all one to an honest man; and that I ever set my service first, and myself second; and wished to God, that he would do the like.

Then he said, it were good to clap a "cap. utlegatum" upon my back! To which I only said he could not; and that he was at fault; for he hunted upon an old scent.

He gave me a number of disgraceful words besides; which I answered with silence, and shewing, that I was not moved with them.

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REASONS WHY IT SHOULD BE EXCEEDING MUCH FOR HIS MAJESTY'S SERVICE TO REMOVE THE LORD COKE FROM THE PLACE HE NOW HOLDETH * TO BE CHIEF JUSTICE OF ENGLAND †, AND THE ATTORNEY ‡ TO SUCCEED HIM, AND THE SOLICITOR § THE ATTORNEY.

FIRST, it will strengthen the king's causes greatly amongst the judges: for both my lord Coke will think himself near a privy counsellor's place, and thereupon turn obsequious; and the attorney-general, a new man, and a grave person, in a judge's place, will come in well to the other, and hold him hard to it, not without emulation between them, who shall please the king best.

Secondly, the attorney-general sorteth not so well with his present place, being a man timid and scrupulous both in parliament and other business, and one, that in a word was made fit for the late lord Treasurer's bent, which was to do little with much formality and protestation: whereas the now solicitor going more roundly to work, and being of a quicker and more earnest temper, and more effec-

* Of chief justice of the common pleas, having been appointed to that office June 30, 1606.

† He was advanced to that office October 25, 1613.

‡ Sir Henry Hobart, who had been appointed attorney-general July 4, 1606.

§ Sir Francis Bacon, who had been sworn Solicitor-general June 25, 1607.

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tual in that he dealeth in, is like to recover that strength to the king's prerogative, which it hath had in times past, and which is due unto it. And for that purpose there must be brought in to be solicitor some man of courage and speech, and a grounded lawyer; which done, his majesty will speedily find a marvellous change in his business. For it is not to purpose for the judges to stand well-disposed, except the king's council, which is the active and moving part, put the judges well to it; for in a weapon, what is a back without an edge?

Thirdly, the king shall continue and add reputation to the attorney's and solicitor's place, by this orderly advancement of them; which two places are the champion's places for his rights and prerogative; and being stripped of their expectations and successions to great place, will wax vile; and then his majesty's prerogative goeth down the wind. Besides, the remove of my lord Coke to a place of less profit, though it be with his will, yet will be thought abroad a kind of discipline to him for opposing himself in the king's causes; the example whereof will contain others in more awe.

Lastly, whereas now it is voiced abroad touching the supply of places, as if it were a matter of labour, and canvass, and money; and other persons are chiefly spoken of to be the men, and the great suitors; this will appear to be the king's own act, and is a course so natural and regular, as it is without all suspicion of these by-courses, to the king's infinite honour. For men say now, the king

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can make good second judges, as he hath done lately*; but that is no mastery, because men sue to be kept from these places. But now is the trial in those great places, how his majesty can hold good, where there is great suit and means.

TO THE KING.

IT MAY PLEASE YOUR MAJESTY,

THIS morning, according to your majesty's command, we have had my lord chief justice of the king's bench† before us, we being assisted by all our learned council, except serjeant Crew, who was then gone to attend your majesty. It was delivered unto him, that your majesty's pleasure was, that we should receive an account from him of the performance of a commandment of your majesty laid upon him, which was, that he should enter into a view and retraction of such novelties, and errors, and offensive conceits, as were dispersed in his "Reports;" that he had had good time to do it; and we doubted not but he had used good endeavour in it, which we desired now in particular to receive from him.

His speech was, that there were of his "Reports," eleven books, that contained about five hundred

* Sir John Dodderidge was made judge of the King's Bench, November 25, 1612, and Sir Augustin Nichols of the Common Pleas the day following.

† Sir Edward Coke.

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cases: that heretofore in other "Reports," as namely, those of Mr. Plowden *, which he reverenced much, there hath been found nevertheless errors, which the wisdom of time had discovered, and later judgments controlled; and enumerated to us four cases in Plowden, which were erroneous: and thereupon delivered in to us the inclosed paper, wherein your majesty may perceive, that my lord is an happy man, that there should be no more errors in his five hundred cases, than in a few cases of Plowden. Your majesty may also perceive, that your majesty's direction to my lord chancellor and myself, and the travail taken by us and Mr. Solicitor †, in following and performing your direction, was not altogether lost; for that of those three heads, which we principally respected, which were the rights and liberties of the Church, your prerogative, and the jurisdiction of other your courts, my lord hath scarcely fallen

* Edmund Plowden, born of an ancient family of that name at Plowden in Shropshire, who, as he tells us himself in the preface to his "Reports," in the twentieth year of his age, and the thirtieth of the reign of Henry VIII. *anno* 1539, began his study of the common law in the Middle Temple. Wood adds *Ath. Oxon. Vol.* I. *col.* 219, that he spent three years in the study of arts, philosophy, and physic, at Cambridge, and four at Oxford, where in November 1552 he was admitted to practise chirurgery and physic. In 1557 he became summer reader of the Middle Temple, and three years after Lent reader, having been made serjeant, October 27, 1558. He died February 6, 1584-5, at the age of sixty-seven, in the profession of the Roman catholic faith, and lies interred in the Temple church.

† Sir Henry Yelverton.

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upon any, except it be the prince's case, which also yet seemeth to stand but upon the grammatical, of French and Latin.

My lord did also give his promise, which your majesty shall find in the end of his writing, thus far in a kind of common place or thesis, that it was sin for a man to go against his own conscience, though erroneous, except his conscience be first informed and satisfied.

The lord chancellor in the conclusion signified to my lord Coke your majesty's commandment, that until report made, and your pleasure thereupon known, he shall forbear his sitting at Westminster, etc. not restraining nevertheless any other exercise of his place of chief justice in private.

Thus having performed, to the best of our understanding, your royal commandment, we rest ever

Your Majesty's most faithful,
and most bounden servants, etc.

THE LORD VISCOUNT VILLIERS TO SIR FRANCIS BACON, ATTORNEY-GENERAL.

SIR,

I have acquainted his majesty with my lord chancellor's and your report, touching my lord Coke; as also with your opinion therein; which his majesty doth dislike for these three reasons: first, because, that by this course you propound, the process cannot have a beginning, till after his majesty's return; which, how long it may last after, no man knoweth.

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He therefore thinketh it too long and uncertain a delay, to keep the bench so long void from a chief justice. Secondly, although his majesty did use the councils advice in dealing with the chief justice upon his other misdemeanors; yet he would be loth to lessen his prerogative, in making the council judges, whether he should be turned out of his place or no, if the case should so require. Thirdly, for that my lord Coke hath sought means to kiss his majesty's hands, and withal to acquaint him with some things of great importance to his service; he holdeth it not fit to admit him to his presence, before these points be determined, because that would be a grant of his pardon before he had his trial. And if those things, wherewith he is to acquaint his majesty, be of such consequence, it would be dangerous and prejudicial to his majesty, to delay him too long. Notwithstanding, if you shall advise of any other reasons to the contrary, his majesty would have you, with all the speed you can, to send them unto him; and in the mean time to keep back his majesty's letter, which is herein sent unto you, from my lord Coke's knowledge, until you receive his majesty's further direction for your proceeding in his business.

And so I rest,

your ever assured friend at command,

Theobald's, GEORGE VILLIERS.
the 3d of October, 1616.

To the Right Honourable Sir Francis Bacon, Knight, His Majesty's Attorney-General, and of his most honourable privy council.

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TO THE KING.

IT MAY PLEASE YOUR MOST EXCELLENT MAJESTY,

We have considered of the letters, which we received from your majesty, as well that written to us both, as that other written by my lord Villiers to me, the attorney, which I thought good to acquaint my lord chancellor withal, the better to give your majesty satisfaction. And we most humbly desire your majesty to think, that we are, and ever shall be, ready to perform and obey your majesty's directions; towards which the first degree is to understand them well.

In answer therefore to both the said letters, as well concerning matter as concerning time, we shall in all humbleness offer to your majesty's high wisdom the considerations following:

First, we did conceive, that after my lord Coke was sequestered from the table and his circuits *, when your majesty laid upon him your commandment for the expurging of his "Reports," and commanded also our service to look into them, and into other novelties introduced into the government, your majesty had in this your doing two principal ends:

The one to see, if upon so fair an occasion he

* On the 30th of June, 1616. *Camdeni Annales Regis Jacobi I.* p. 19; and Peck, *Desiderata Curiosa*, Vol. I. Lib. VI. p. 18.

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would make any expiation of his former faults: and also shew himself sensible of those things in his "Reports," which he could not but know were the likest to be offensive to your majesty.

The other, to perform "de vero" this right to your crown and succession, and your people also; that those errors and novelties might not run on, and authorize by time, but might be taken away, whether he consented to it or no.

But we did not conceive your majesty would have had him charged with those faults of his book, or those other novelties; but only would have had them represented to you for your better information.

Now your majesty seeth what he hath done, you can better judge of it than we can. If, upon this probation added to former matters, your majesty think him not fit for your service, we must in all humbleness subscribe to your majesty, and acknowledge that neither his displacing, considering he holdeth his place but during your will and pleasure, nor the choice of a fit man to be put in his room, are council-table matters, but are to proceed wholly from your majesty's great wisdom and gracious pleasure. So that in this course, it is but the signification of your pleasure, and the business is at an end as to him. Only there remaineth the actual expurgation or animadversions of the books.

But if your majesty understand it, that he shall be charged, then, as your majesty best knoweth, justice requireth, that he be heard and called to his answer,

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and then your majesty will be pleased to consider, before whom he shall be charged; whether before the body of your council, as formerly he was, or some selected commissioners; for we conceive your majesty will not think it convenient it should be before us two only. Also the manner of his charge is considerable, whether it shall be verbal by your learned council, as it was last; or whether, in respect of the multiplicity of matters, he shall not have the collections we have made in writing, delivered to him. Also the matter of his charge is likewise considerable, whether any of those points of novelty, which by your majesty's commandment we collected, shall be made part of his charge; or only the faults of his books, and the prohibitions and "habeas corpus," collected by my lord of Canterbury. In all which course we foresee length of time, not so much for your learned council to be prepared, for that is almost done already, but because himself, no doubt, will crave time of advice to peruse his own books, and to see, whether the collections be true, and that he be justly charged; and then to produce his proofs, that those things, which he shall be charged with, were not conceits or singularities of his own, but the acts of court, and other like things, tending to excusation or extenuation; wherein we do not see, how the time of divers days, if not of weeks, can be denied him.

Now for time, if this last course of charging him be taken, we may only inform your majesty thus much, that the absence of a chief justice, though it

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should be for a whole term, as it hath been often upon sickness, can be no hindrance to common justice. For the business of the king's bench may be dispatched by the rest of the judges: his voice in the star-chamber may be supplied by any other judge, that my lord chancellor shall call; and the trials by "nisi prius" may be supplied by commission.

But as for those great matters of discovery, we can say nothing more than this, that either they are old or new. If old, he is to blame for having kept them so long: if new, or whatsoever, he may advertise your majesty of them by letter, or deliver them by word to such counsellor as your majesty will assign.

Thus we hope your majesty will accept of our sincerity, having dealt freely and openly with your majesty, as becometh us: and when we shall receive your pleasure and direction, we shall execute and obey the same in all things; ending with our prayers for your majesty, and resting

Your Majesty's most faithful, and
most bounden servants,
T. Ellesmere, Canc.
Fr. Bacon.

October 6, 1616.

REMEMBRANCES OF HIS MAJESTY'S DECLARATION, TOUCHING THE LORD COKE.

That although the discharging and removing of his majesty's officers and servants, as well as the choice

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and advancement of men to place, be no council-table matters, but belong to his majesty's princely will and secret judgment; yet his majesty will do his council this honour, that in his resolutions of that kind, his council shall know them first before others, and shall know them, accompanied by their causes, making as it were a private manifesto, or revealing of himself to them without parables.

Then to have the report of the lords touching the business of the lord Coke, and the last order of the council read.

That done, his majesty farther to declare, that he might, upon the same three grounds in the order mentioned, of deceit, contempt, and slander of his government, very justly have proceeded then, not only to have put him from his place of chief justice, but to have brought him in question in the star-chamber, which would have been his utter overthrow; but then his majesty was pleased for that time only to put him off from the council-table, and from the public exercise of his place of chief justice, and to take farther time to deliberate.

That in his majesty's deliberation, besides the present occasion, he had in some things looked back to the lord Coke's former carriage, and in some things looked forward, to make some farther trial of him.

That for things passed, his majesty had noted in him a perpetual turbulent carriage, first towards the liberties of his church and estate ecclesiastical; towards his prerogative royal, and the branches thereof; and likewise towards all the settled juris-

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dictions of all his other courts, the high commission, the star-chamber, the chancery, the provincial councils, the admiralty, the duchy, the court of requests, the commission of inquiries, the new boroughs of Ireland; in all which he had raised troubles and new questions; and lastly, in that, which might concern the safety of his royal person, by his exposition of the laws in cases of high treason.

That, besides the actions themselves, his majesty in his princely wisdom hath made two special observations of him; the one, that he having in his nature not one part of those things, which are popular in men, being neither civil, nor affable, nor magnificent, he hath made himself popular by design only, in pulling down government. The other, that whereas his majesty might have expected a change in him, when he made him his own, by taking him to be of his council, it made no change at all, but to the worse, he holding on all his former channel, and running separate courses from the rest of his council; and rather busying himself in casting fears before his council, concerning what they could not do, than joining his advice what they should do.

That his majesty, desirous yet to make a farther trial of him, had given him the summer's vacation to reform his "Reports," wherein there be many dangerous conceits of his own uttered for law, to the prejudice of his crown, parliament, and subjects; and to see, whether by this he would in any part redeem his fault. But that his majesty hath failed of the redemption he desired, but hath met with

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another kind of redemption from him, which he little expected. For as to the "Reports," after three months time and consideration, he had offered his majesty only five animadversions, being rather a scorn, than a satisfaction to his majesty; whereof one was that in the prince's case he had found out the French statute, which was "filz aisné," whereas the Latin was "primogenitus;" and so the prince is duke of Cornwall in French, and not duke of Cornwall in Latin. And another was, that he had set Montagu to be chief justice in Henry VIII's time, when it should have been in Edward VI's, and such other stuff; not falling upon any of those things, which he could not but know were offensive.

That hereupon his majesty thought good to refresh his memory, and out of many cases, which his majesty caused to be collated, to require his answer to five, being all such, as were but expatiations of his own, and no judgments; whereunto he returned such an answer, as did either justify himself, or elude the matter, so as his majesty seeth plainly "antiquum obtinet."

TO THE KING.

MAY IT PLEASE YOUR EXCELLENT MAJESTY,

I send your majesty a form of discharge for my lord Coke from his place of chief justice of your bench*.

* Sir Edward Coke was removed from that post on the 15th November, 1616.

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I send also a warrant to the lord chancellor, for making forth a writ for a new chief justice, leaving a blank for the name to be supplied by your majesty's presence; for I never received your majesty's express pleasure in it.

If your majesty resolve of Montagu* as I conceive and wish, it is very material, as these times are, that your majesty have some care, that the recorder succeeding be a temperate and discreet man, and assured to your majesty's service. If your majesty, without too much harshness, can continue the place within your own servants, it is best: if not, the man, upon whom the choice is like to fall, which is Coventry,† I hold doubtful for your service; not but that he is a well learned, and an honest man; but he hath been, as it were, bred by lord Coke, and seasoned in his ways.

God preserve your majesty.

Your Majesty's most humble
and bounden servant,
FR. BACON.

I send not these things, which concern my lord Coke, by my lord Villiers, for such reasons as your majesty may conceive.

November 13, at noon [1616.]

* Sir Henry Montagu, recorder of London, who was made lord chief justice of the King's Bench, November 16, 1616. He was afterwards made lord treasurer, and created earl of Manchester.

† Thomas Coventry, Esq.; afterwards lord keeper of the great seal.

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TO THE KING.

IT MAY PLEASE YOUR MOST EXCELLENT MAJESTY,

I SEND your majesty, according to your commandment, the warrant for the review of Sir Edward Coke's "Reports." I had prepared it before I received your majesty's pleasure: but I was glad to see it was in your mind, as well as in my hands. In the nomination, which your majesty made of the judges, to whom it should be directed, your majesty could not name the lord chief justice, that now is,* because he was not then declared: but you could not leave him out now, without discountenance.

I send your majesty the state of lord Darcy's cause† in the star-chamber, set down by Mr. Solli-

* Sir Henry Montagu.

† This is just mentioned in a letter of Sir Francis Bacon to the lord viscount Villiers, printed in his works; but is more particularly stated in the "Reports" of Sir Henry Hobart, lord chief justice of the Common Pleas, p. 120, 121. Edit. London, 1658, fol. as follows. The lord Darcy of the North sued Gervase Markham, Esq.; in the Star-Chamber, in 1616, on this occasion. They had hunted together, and the defendant and a servant of the plaintiff, one Beckwith, fell together by the ears in the field; and Beckwith threw him down, and was upon him cuffing him, when the lord Darcy took his servant off, and reproved him. However, Mr. Markham expressing some anger against his lordship, and charging him with maintaining his man, lord Darcy answered, that he had used Mr. Markham kindly; for if he had not rescued him from his man, the latter would have beaten him to rags. Mr. Markham, upon this,

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citor,* and mentioned in the letters, which your majesty received from the lords. I leave all in humbleness to your majesty's royal judgment: but this is true, that it was the clear opinion of my lord chancellor, and myself, and the two chief justices, and others, that it is a cause most fit for the censure of the court, both for the repressing of duels, and the encouragement of complaints in courts of justice. If your majesty be pleased it shall go on, there resteth but Wednesday for the hearing; for the last day of term is commonly left for orders, though sometimes, upon extraordinary occasion, it hath been set down for the hearing of some great cause.

I send your majesty also baron Bromley's† report, which your majesty required; whereby your majesty may perceive things go not so well in Cumberland, which is the seat of the party your majesty named to me, as was conceived. And yet if there

wrote five or six letters to lord Darcy, subscribing them with his name; but did not send them, and only dispersed them unsealed in the fields; the purport of them being this: that whereas the lord Darcy had said, that, but for him, his servant Beckwith had beaten him to rags, he lied; and as often as he should speak it, he lied; and that he would maintain this with his life: adding, that he had dispersed those letters, that his lordship might find them, or somebody else bring them to him; and that if his lordship were desirous to speak with him, he might send his boy, who should be well used. For this offence, Mr. Markham was censured, and fined 500*l.* by the Star-Chamber.

* Sir Henry Yelverton.

† Edward Bromley, made one of the barons of the Exchequer, February 6, 1609-10.

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were land-winds, as there be sea-winds, to bind men in, I could wish he were a little wind-bound, to keep him in the south.

But while your majesty passeth the accounts of judges in circuits, your majesty will give me leave to think of the judges here in their upper region. And because Tacitus saith well, "opportuni magnis conatibus transitus rerum;" now upon this change, when he, that letteth, is gone, I shall endeavour, to the best of my power and skill, that there may be a consent and united mind in your judges to serve you, and strengthen your business. For I am persuaded there cannot be a sacrifice, from which there may come up to you a sweeter odour of rest, than this effect, whereof I speak.

For this wretched murderer, Bertram,* now gone to his place, I have, perceiving your majesty's good liking of what I propounded, taken order, that there shall be a declaration concerning the cause in the king's bench, by occasion of punishment of the offence of his keeper; and another in chancery, upon the occasion of moving for an order, according to his just and righteous report. And yet withal, I have set on work a good pen,† and myself will overlook it,

* John Bertram, a grave man, above seventy years of age, and of a clear reputation, according to Camden, *Annales Regis Jacobi I.* p. 21. He killed with a pistol, in Lincoln's Inn, on the 12th of November, 1616, Sir John Tyndal, a master in Chancery, for having made a report against him in a cause, wherein the sum contended for did not exceed 200*l.* He hanged himself in prison on the 17th of that month.

† Mr. Trott.

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for making some little pamphlet fit to fly abroad in the country.

For your majesty's proclamation touching the wearing of cloth, after I had drawn a form as near as I could to your majesty's direction, I propounded it to the lords, my lord chancellor being then absent; and after their lordships' good approbation, and some points by them altered, I obtained leave of them to confer thereupon with my lord chancellor and some principal judges, which I did this afternoon; so as, it being now perfected, I shall offer it to the board to-morrow, and so send it to your majesty.

So humbly craving your majesty's pardon for troubling you with so long a letter, specially being accompanied with other papers, I ever rest

Your Majesty's most humble
and bounden servant,
FR. BACON.

This 21st of November, at
ten at Night [1616.]

SIR EDWARD COKE TO THE KING.

MOST GRACIOUS SOVEREIGN,

I THINK it now my duty to inform your majesty of the motives that induced the lord chancellor and judges to resolve, that a murder or felony, committed by one Englishman upon another in a foreign kingdom, shall be punished before the constable and marshal here in England.

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First, in the book-case, in the 13th year of king Henry the fourth, in whose reign the statute was made, it is expressly said, one liege-man was killed in Scotland by another liege-man; and the wife of him that was killed, did sue an appeal of murder in the constable's court of England. "Vide Statutum," saith the book, "de primo Henrici IV. Cap. 14. Et contemporanea exposito est fortissima in Lege." Stanford,* an author without exception, saith thus, fol. 65, a.: "By the statute of Henry IV. Cap. 14. if any subject kill another subject in a foreign kingdom, the wife of him, that is slain, may have an appeal in England before the constable and marshal; which is a case "in terminis terminantibus." And when the wife, if the party slain have any, shall have an appeal, there, if he hath no wife, his next heir shall have it."

If any fact be committed out of the kingdom, upon the high sea, the lord admiral shall determine it. If in a foreign kingdom, the cognizance belongeth to the constable, where the jurisdiction pertains to him.

And these authorities being seen by Bromley, chancellor, and the two chief justices, they clearly resolved the case, as before I have certified your majesty.

* Sir William, the most ancient writer on the pleas of the crown. He was born in Middlesex, August 22, 1509, educated in the university of Oxford, studied the law at Gray's Inn, in which he was elected autumn reader in 1545, made serjeant in 1552, the year following queen's serjeant, and, in 1554, one of the justices of the Common Pleas. He died August 28, 1558.

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I humbly desire I may be so happy, as to kiss your majesty's hands, and to my exceeding comfort to see your sacred person; and I shall ever rest

Your Majesty's faithful and loyal subject,

EDW. COKE.

February 25, 1616-7.

To the King's most excellent Majesty.

THE KING TO THE LORD KEEPER, IN ANSWER TO HIS LORDSHIP'S LETTER FROM GORHAMBURY, OF JULY 25, 1617.

JAMES R.

RIGHT trusty and well beloved counsellor, we greet you well.

Although our approach doth now begin to be near London, and that there doth not appear any great necessity of answering your last letter, since we are so shortly to be at home; yet we have thought good to make some observations to you upon the same, that you may not err, by mistaking our meaning.

The first observation we are to make is, that, whereas you would invert the second sense, wherein we took your "magnum in parvo," in accounting it to be made "magnum" by their streperous carriage, that were for the match, we cannot but shew you your mistaking therein. For every wrong must be judged by the first violent and wrongous ground, whereupon it proceeds. And was not the thefteous

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stealing away of the daughter from her own father* the first ground whereupon all this great noise hath since proceeded? For the ground of her getting again came upon a lawful and ordinary warrant, subscribed by one of our council †, for redress of the former violence: and except the father of a

* Lady Hatton had first removed her daughter to Sir Edmund Whithipole's house, near Oatlands, without the knowledge of Sir Edward Coke; and from thence, according to a letter of Mr. Chamberlain, dated July 19, 1617, the young lady was privately conveyed to a house of the lord of Argyle's by Hampton-Court. "Whence," adds Mr. Chamberlain, "her father, with a warrant from Mr. Secretary [Winwood] fetched her: but indeed went farther than his warrant, and brake open divers doors before he got her."

† Secretary Winwood, who, as Mr. Chamberlain observes in the letter cited in the note above, was treated with ill language at the council-board by the lord keeper, and threatened with a "præmunire," on account of his warrant granted to Sir Edward Coke. His lordship, at the same time, told the lady Compton, mother of the earl of Buckingham, that they wished well to her and her sons, and would be ready to serve the earl with all true affection; whereas others did it out of "faction" and "ambition." Which words glancing directly at secretary Winwood, he alledged, that what he had done was by the direction of the queen and the other parties, and shewed a letter of approbation of all his courses from the king, making the whole table judge what "faction" or "ambition" appeared in his carriage: to which no answer was returned. The queen, some time after, taking notice of the disgust, which the lord keeper had conceived against secretary Winwood, and asking his lordship, what occasion the secretary had given him to oppose himself so violently against him, his lordship answered, "Madam, I can say no more but he is proud, and I am proud." MS. letter of Mr. Chamberlain, October 11, 1617.

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child might be proved to be either lunatic, or idiot, we never read in any law, that either it could be lawful for any creature to steal his child from him; or that it was a matter of noise and streperous carriage for him to hunt for the recovery of his child again.

Our next observation is, that whereas you protest your affection to Buckingham, and thereafter confess, that it is in some sort "parent-like;" yet, after that you have praised his natural parts, we will not say, that you throw all down by a direct imputation upon him; but we are sure you do not deny to have had a greater jealousy of his discretion, than, so far as we conceive, he ever deserved at your or any man's hands. For you say, that you were afraid, that the height of his fortune might make him too secure; and so, as a looker-on, you might sometime see more than a gamester. Now we know not how to interpret this in plain English otherwise, than that you were afraid, that the height of his fortune might make him misknow himself. And surely, if that be your "parent-like affection" toward him, he hath no obligation to you for it. And, for our part, besides our own proof, that we find him farthest from that vice of any courtier, that ever we had so near about us; so do we fear, that you shall prove the only phenix in that jealousy of all the kingdom. For we would be very sorry, that the world should apprehend that conceit of him. But we cannot conceal, that we think it was least your part of any to enter into that jealousy of him, of whom we have

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heard you oft speak in a contrary style. And as for that error of yours, which he lately palliated, whereof you seem to pretend ignorance; the time is so short since you commended to him one * to be of the barons of our exchequer in Ireland, as we cannot think you to be so short of memory, as to have forgotten how far you undertook in that business, before acquainting us with it; what a long journey you made the poor man undertake, together with the slight recommendation you sent of him; which drave us to those straits, that both the poor man had been undone, and your credit a little blasted, if Buckingham had not, by his importunity, made us both grant you more than suit, for you had already acted a part of it, and likewise run a hazard of the hindrance of your own service, by preferring a person to so important a place, whom you so slightly recommended.

Our third observation is upon the point of your opposition to this business, wherein you either do, or at least would seem to, mistake us a little. For first, whereas you excuse yourself of the oppositions you made against Sir Edward Coke at the council-table, both for that, and other causes; we never took upon us such a patrociny of Sir Edward Coke, as if he were a man not to be meddled withal in any case. For whatsoever you did against him, by our employment and commendation, we ever allowed it, and still do, for good service on your part. " De bonis

* Mr. Lowder. See the letter of the earl of Buckingham of the 5th of July.

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operibus non lapidamus vos." But whereas you talk of the riot and violence committed by him, we wonder you make no mention of the riot and violence of them, that stole away his daughter, which was the first ground of all that noise, as we said before. For a man may be compelled by manifest wrong beyond his patience; and the first breach of that quietness, which hath ever been kept since the beginning of our journey, was made by them that committed the theft. And for your laying the burden of your opposition opon the council, we meddle not with that question; but the opposition, which we justly find fault with you, was the refusal to sign a warrant for the father to the recovery of his child, clad with those circumstances, as is reported, of your slight carriage to Buckingham's mother, when she repaired to you upon so reasonable an errand. What farther opposition you made in that business, we leave it to the due trial in the own time. But whereas you would distinguish of times, pretending ignorance either of our meaning or his, when you made your opposition; that would have served for a reasonable excuse not to have furthered such a business, till you had been first employed in it: but that can serve for no excuse of crossing any thing, that so nearly concerned one, whom you profess such friendship unto. We will not speak of obligation; for surely we think, even in good manners, you had reason not to have crossed any thing, wherein you had heard his name used, till you had heard from him. For if you had willingly given your consent

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and hand to the recovery of the young gentlewoman; and then written both to us and to him what inconvenience appeared to you to be in such a match; that had been the part indeed of a true servant to us, and a true friend to him. But first to make an opposition; and then to give advice by way of friendship, is to make the plow go before the horse.

Thus leaving all the particulars of your carriage, in this business, to the own proper time, which is ever the discoverer of truth, we commend you to God. Given under our signet at Nantwich, in the fifteenth year of our reign of Great Britain, etc.

SIR HENRY YELVERTON, ATTORNEY-GENERAL, TO THE LORD KEEPER BACON.

MY MOST WORTHY AND HONOURABLE LORD,

I DARE not think my journey lost, because I have with joy seen the face of my master, the king, though more clouded towards me than I looked for.

Sir Edward Coke hath not forborne, by any engine, to heave at your honour, and at myself; and he works by the weightiest instrument, the earl of Buckingham, who, as I see, sets him as close to him as his shirt, the earl speaking in Sir Edward's praise, and, as it were, menacing in his spirit.

My lord, I emboldened myself to assay the temper of my lord of Buckingham to myself, and found it very fervent, misled by information, which yet I find he embraced as truth, and did nobly and plainly tell

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me, he would not secretly bite; but whosoever had any interest, or tasted of the opposition to his brother's marriage, he would as openly oppose them to their faces, and they should discern what favour he had, by the power he would use.

In the passage between him and me, I stood with much confidence upon these grounds.

First, that neither your lordship, nor myself had any way opposed, but many ways had furthered, the fair passage to the marriage.

Secondly, that we only wished the manner of Sir Edward's proceedings to have been more temperate, and more nearly resembling the earl's sweet disposition.

Thirdly, that the chiefest check in this business was Sir Edward himself, who listened to no advice, who was so transported with passion, as he purposely declined the even way, which your lordship and the rest of the lords left both him, his lady, and his daughter in.

Fourthly, I was bold to stand upon my ground; and so I said I knew your lordship would, that these were slanders, which were brought him of us both, and that it stood not with his honour to give credit to them.

After I had passed these straits with the earl, leaving him leaning still to the first relation of envious and odious adversaries, I had ventured to approach his majesty, who graciously gave me his hand to kiss, but intermixed withal that I deserved not that favour, if three or four things were true, which he

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had to object against me. I was bold to crave his princely justice; first, to hear, then to judge; which he graciously granted, and said, he wished I could clear myself. I answered I would not appeal to his mercy in any of the points, but would endure the severest censure, if any of them were true. Whereupon he said, he would reserve his judgment till he heard me; which could not be then, his other occasions pressed him so much. All this was in the hearing of the earl; and I protest, I think the confidence in my innocency made me depart half justified; for I likewise kissed his majesty's hand at his departure; and though out of his grace he commanded my attendance to Warwick, yet upon my suit he easily inclined to give me the choice, to wait on him at Windsor, or at London.

Now, my lord, give me leave, out of all my affections, that shall ever serve you, to intimate touching yourself:

1. That every courtier is acquainted, that the earl professeth openly against you, as forgetful of his kindness, and unfaithful to him in your love, and in your actions.

2. That he returneth the shame upon himself, in not listening to counsel, that dissuaded his affections from you, and not to mount you so high, not forbearing in open speech, as divers have told me, and this bearer, your gentleman, hath heard also, to tax you, as if it were an inveterate custom with you, to be unfaithful to him, as you were to the earls of Essex and Somerset.

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3. That it is too common in every man's mouth in court, that your greatness shall be abated; and as your tongue hath been as a razor to some, so shall theirs be to you.

4. That there are laid up for you, to make your burden the more grievous, many petitions to his majesty against you.

My lord, Sir Edward Coke, as if he were already upon his wings, triumphs exceedingly; hath much private conference with his majesty; and in public doth offer himself, and thrust upon the king, with as great boldness of speech, as heretofore.

It is thought, and much feared, that at Woodstock he will again be recalled to the council-table; for neither are the earl's ears, nor his thoughts, ever off him.

Sir Edward Coke, with much audacity, affirmeth his daughter to be most deeply in love with Sir John Villiers; 'that the contract pretended with the earl of Oxford is counterfeit; and the letter also, that is pretended to have come from the earl.'

My noble lord, if I were worthy, being the meanest of all to interpose my weakness, I would humbly desire,

1. That your lordship fail not to be with his majesty at Woodstock. The sight of you will fright some.

2. That you single not yourself from other lords; but justify the proceedings as all your joint acts; and I little fear but you pass conqueror.

3. That you retort the clamour and noise in this

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business upon Sir Edward Coke, by the violence of his carriage.

4. That you seem not dismayed, but open yourself bravely and confidently, wherein you can excel all subjects; by which means I know you shall amaze some, and daunt others.

I have abused your lordship's patience long; but my duty and affection towards your lordship shall have no end: but I will still wish your honour greater, and rest myself

Your Honour's servant,

HENRY YELVERTON.

Daventry, Sept. 3, 1617.

I beseech your lordship burn this letter.

To the right honourable his singular good lordship, the lord keeper of the great seal.

TO THE MARQUIS OF BUCKINGHAM.

MY VERY GOOD LORD,

THIS day afternoon, upon our meeting in council, we have planed those rubs and knots, which were mentioned in my last, whereof I thought good presently to advertise his majesty. The days hold without all question, and all delays diverted and quieted.

Sir Edward Coke was at Friday's hearing, but in his night-cap; and complained to me, he was ambulant, and not current. I would be sorry he should fail us in this cause. Therefore I desired his majesty to signify to him by your lordship, taking knowledge

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of some light indisposition of his, how much he should think his service disadvantaged in this cause, if he should be at any day away; for then he cannot sentence.

By my next I will give his majesty some account of the tobacco and the currants. I ever rest

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, Canc.

November 20, at evening, 1619.

TO THE KING.

MAY IT PLEASE YOUR MAJESTY,

SIR Edward Coke is now a-foot, and, according to your command, signified by Mr. Secretary Calvert, we proceed in Peacock's examinations. For although there have been very good diligence used, yet certainly we are not at the bottom; and he, that would not use the utmost of his line to sound such a business as this, should not have due regard, neither to your majesty's honour nor safety.

A man would think he were in Luke Hutton's case again; for as my lady Roos personated Luke Hutton, so, it seemeth, Peacock personateth Atkins. But I make no judgment yet, but will go on with all diligence: and, if it may not be done otherwise, it is fit Peacock be put to torture. He deserveth it as well as Peacham did.

I beseech your majesty not to think I am more bitter, because my name is in it; for, besides that I

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always make my particular a cypher, when there is question of your majesty's honour and service, I think myself honoured for being brought into so good company. And as, without flattery, I think your majesty the best of kings, and my noble lord of Buckingham the best of persons favoured; so I hope, without presumption, for my honest and true intentions to state and justice, and my love to my master, I am not the worst of chancellors.

God ever preserve your majesty.

Your Majesty's most obliged
and most obedient servant,

February 10, 1619. FR. VERULAM, Canc.

THE FOLLOWING PAPERS, CONTAINING THE LORD CHANCELLOR ELLESMERE'S EXCEPTIONS TO SIR EDWARD COKE'S "REPORTS," AND SIR EDWARD'S ANSWERS, HAVING NEVER BEEN PRINTED, THOUGH MR. STEPHENS, WHO HAD COPIED THEM FROM THE ORIGINALS, DESIGNED TO HAVE GIVEN THEM TO THE PUBLIC, THEY ARE SUBJOINED HERE IN JUSTICE TO THE MEMORY OF THAT GREAT LAWYER AND JUDGE; ESPECIALLY AS THE OFFENCE TAKEN AT HIS "REPORTS" BY KING JAMES, IS MENTIONED ABOVE IN THE LETTER OF THE LORD CHANCELLOR AND SIR FRANCIS BACON, OF OCTOBER 16, 1616, TO THAT KING.

TO THE KING'S MOST EXCELLENT MAJESTY.

IT MAY PLEASE YOUR MOST EXCELLENT MAJESTY.

ACCORDING to your majesty's directions signified

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unto me by Mr. Solicitor, I called the lord chief justice before me on Thursday the 17th of this instant, in the presence of Mr. Attorney and others of your learned counsel. I did let him know your majesty's acceptance of the few animadversions, which, upon review of his own labours, he had sent, though fewer than you expected, and his excuses other than you expected, as namely, in the prince's case, the want of the original in French, as though, if the original had been "primogenitus" in Latin, then he had not in that committed any error. I told him farther, that because his books were many, and the cases therein, as he saith, 500, your majesty, out of your gracious favour, was pleased, that his memory should be refreshed; and that he should be put in mind of some passages dispersed in his books, which your majesty, being made acquainted with, doth as yet distaste, until you hear his explanation and judgment concerning the same. And that out of many some few should be selected, and that at this time he should not be pressed with more, and these few not to be the special and principal points of the cases, which were judged, but things delivered by discourse, and, as it were, by expatiation, which might have been spared and forborn, without prejudice to the judgment in the principal cases.

Of this sort Mr. Attorney and Mr. Solicitor made choice of five specially, which were read distinctly to the lord chief justice. He heard them with good attention, and took notes thereof in writing, and, lest there might be any mistaking either in the declaring

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thereof unto him, or in his misconceiving of the same, it was thought good to deliver unto him a true copy. Upon consideration whereof, and upon advised deliberation, he did yesterday in the afternoon return unto me, in the presence of all your learned counsel, a copy of the five points before mentioned, and his answer at large to the same, which I make bold to present herewith to your majesty, who can best discern and judge both of this little which is done, and what may be expected of the multiplicity of other cases of the like sort, if they shall be brought to further examination. All that I have done in this hath been by your majesty's commandment and direction, in presence of all your learned counsel, and by the special assistance and advice of your attorney and solicitor.

I know obedience is better than sacrifice; for otherwise I would have been an humble suitor to your majesty to have been spared in all service concerning the lord chief justice. I thank God, I forget not the fifth petition, "Dimitte nobis debita nostra sicut, etc." but withal I have learned this distinction: there is, 1. "Remissio vindictæ." "2. Remissio pœnæ." 3. "Remissio judicii." The two first I am past, and have freely and clearly remitted. But the last, which is of judgment and discretion, I trust I may in Christianity and with good conscience retain, and not to trust too far, etc.

I must beseech your majesty's favour to excuse me for all that I have here before written, but specially for this last needless passage; wherein I fear

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your majesty will note me to play the divine, without learning, and out of season. So with my continual prayers to God to preserve your majesty with long, healthful, and happy life, and all earthly and heavenly felicity, I rest

Your Majesty's humble
and faithful subject and servant,
T. ELLESMERE, Canc.

At York-house,
22 Oct. 1616.

THE HUMBLE AND DIRECT ANSWER TO THE FOURTH QUESTION ARISING OUT OF DR. BONHAM'S CASE.

IN this case I am required to deliver what I mean by this passage therein, That in many cases the common law shall control acts of parliament; and sometimes shall adjudge them to be merely void; for where an act of parliament is against common right and reason, the common law shall control it, and adjudge it to be void.

The words of my report do not import any new opinion, but only a relation of such authorities of law, as had been adjudged and resolved in ancient and former times, and were cited in the argument of Bonham's case; and therefore the words of my book are these, "It appeareth in our books, that in many cases the common law shall control acts of parliament, and sometimes shall adjudge them to be utterly void; for when an act of parliament is against com-

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mon right and reason, or repugnant or impossible to be performed, the common law shall control this, and adjudge such act to be void." And therefore in 8 E. III. 30, Thomas Tregor's case, upon the statute of West. 2. cap. 38, "et artic. super cart." cap. 9, Herle saith, Some statutes are made against law and right, which they, that made them, perceiving, would not put them in execution.

The statute of H. II. cap. 21, gives a writ of "Cessavit hæredi petenti super hæredem tenent et super eos, quibus alienatum fuerit hujusmodi tenementum." And yet it is adjudged in 33 E. III. "tit. cessavit" 42, where the case was, Two co-partners, lords and tenant by fealty and certain rent; the one co-partner hath issue, and dieth, the aunt and the niece shall not join in a "cessavit," because that the heir shall not have a "cessavit," for the cessor in his ancestor's time. Fitz. N. B. 209, F. and herewith accords Plow. com. 110. And the reason is, because that in a "cessavit," the tenant, before judgment, may render the arrearages and damages, etc. and retain his land: and this he cannot do, when the heir bringeth a "cessavit" for the cessor in the time of his ancestor; for the arrearages incurred in the life of his ancestor do not belong to the heir.

And because that this is against common right and reason, the common law adjudges the said act of parliament as to this point void. The statute of Carlisle, made anno 35 E. I. enacteth, That the order of the Cistertians and Augustins have a convent and common seal; that the common seal shall

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be in the custody of the prior, which is under the abbot, and four others of the discreetest of the house; and that any deed sealed with the common seal, that is not so kept, shall be void. And the opinion in the 27 H. VI. tit. Annuity 41, was, that this statute is void; for the words of the book are, it is impertinent to be observed: for the seal being in their custody, the abbot cannot seal any thing with it; and when it is in the hands of the abbot, it is out of their custody "ipso facto." And if the statute should be observed, every common seal might be defeated by a simple surmise, which cannot be. Note, reader, the words of the said statute made at Carlisle, anno 35 E. I. which is called "Statutum Religiosorum," are these: "Et insuper ordinavit dominus rex et statuit, quod abbates Cistercienses et Præmonstratenses ordinum religiosorum, etc. de cetero habeant sigillum commune, et illud in custodia prioris monasterii seu domus et quatuor de dignioribus et discretioribus ejusdem loci conventus sub privato sigillo abbatis ipsius loci custod. deponend. Et si forsan aliqua scripta obligationum, donationum, emptionum, venditionum, alienationum, seu aliorum quorumcunque contractuum alio sigillo quam tali sigillo communi sicut præmittitur custodit, inveniatur amodo, sigillata pro nullo penitus habeantur, omnique careant firmitate." So the statute of 1 E. VI. cap. 14, gives chanteries, etc. to the king, saving to the donor, etc. all such rents, services, etc. and the common law controls this, and adjudges it void as to the services; and the donor shall have the rent as a rent-seck to

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distrain of common right; for it should be against common right and reason, that the king should hold of any, or do suit to any of his subjects, 14 Eliz. Dyer, 313. And so it was adjudged Mich. 16 and 17 Eliz. in the common place in Stroud's case. So if any act of parliament give to any to hold, or to have conusance of all manner of pleas before him arising within his manor of D. yet he shall hold no plea, whereunto himself is a paty, for "Iniquum est aliquem suæ rei esse judicem."

Which cases being cited in the argument of this case, and I finding them truly vouched, I reported them in this case, as my part was, and had no other meaning than so far as those particular cases there cited do extend unto. And therefore the beginning is, It appeareth in our books, etc. And so it may be explained, as it was truly intended.

In all which I most humbly submit myself to your majesty's princely censure and judgment.

EDW. COKE.

THE HUMBLE AND DIRECT ANSWER TO THE LAST QUESTION ARISING UPON BAGG'S CASE.

IT was resolved, that to this court of the King's Bench belongeth authority not only to correct errors in judicial proceedings, but other errors and misdemeanors tending to the breach of the peace, or oppression of the subjects, or to the raising of faction or other misgovernment: so that no wrong or

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injury either public or private can be done, but it shall be reformed and punished by law.

Being commanded to explain myself concerning these words, and principally concerning this word, "misgovernment;"

I answer, that the subject-matter of that case concerned the misgovernment of the mayors and other the magistrates of Plymouth.

And I intended for the persons the misgovernment of such inferior magistrates for the matters in committing wrong or injury, either public or private, punishable by law, and therefore the last clause was added, "and so no wrong or injury, either public or private, can be done, but it shall be reformed and punished by law;" and the rule is "verba intelligenda sunt secundum subjectam materiam."

And that they and other corporations might know, that factions and other misgovernments amongst them, either by oppression, bribery, unjust disfranchisements, or other wrong or injury, public or private, are to be redressed and punished by law, it was so reported.

But if any scruple remains to clear it, these words may be added "by inferior magistrates;" and so the sense shall be by faction or misgovernment of inferior magistrates, so as no wrong or injury, etc.

All which I most humbly submit to your majesty's princely judgment,

EDW. COKE.

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MAY IT PLEASE YOUR LORDSHIP,

ABOVE a year past, in my late lord chancellor's time, information was given to his majesty, that I having published in eleven works or books of reports, containing above 600 cases one with another, had written many things against his majesty's prerogative. And I being by his majesty's gracious favour called thereunto, all the exceptions, that could be taken to so many cases in so many books, fell to five, and the most of them too were by passages in general words; all which I offered to explain in such sort, as no shadow should remain against his majesty's prerogative, as in truth there did not; which whether it were related to his majesty, I know not. But thereupon the matter hath slept all this time; and now the matter, after this ever blessed marriage, is revived, and two judges are called by my lord keeper to the former, that were named. My humble suit to your lordship is, that if his majesty shall not be satisfied with my former offer, viz. by advice of the judges to explain and publish as is aforesaid those five points, so as no shadow may remain against his prerogative; that then all the judges of England may be called hereunto. 2. That they may certify also what cases I have published for his majesty's prerogative and benefit, for the good of the Church, and quieting of men's inheritances, and good of the commonwealth; for which purpose I have drawn a minute of a letter to the judges, which I assure myself your lord-

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ship will judge reasonable; and so reposing myself upon your lordship's protection I shall ever remain

Your most bounden servant,

EDW. COKE.

Superscribed.

To the right honourable his singular good lord the earl of Buckingham, of his majesty's privy council.

THE LETTER TO THE JUDGES.

WHEREAS in the time of the late lord chancellor intimation was given unto us, that divers cases were published in Sir Edward Coke's reports, tending to the prejudice of our prerogative royal; whereupon we caring for nothing more, as by our kingly office we are bounden, than the preservation of prerogative royal, referred the same; and thereupon, as we are informed, the said Sir Edward Coke being called thereunto, the objections were reduced to five only, and most of them consisting in general terms; all which Sir Edward offered, as we are informed, to explain and publish, so as no shadow might remain against our prerogative. And whereas of late two other judges are called to the others formerly named. Now our pleasure and intention being to be informed of the whole truth, and that right be done to all, do think it fit, that all the judges of England, and barons of the Exchequer, who have

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principal care of our prerogative and benefit, do assemble together concerning the discussing of that, which, as is aforesaid, was formerly referred; and also what cases Sir Edward Coke hath published to the maintenance of our prerogative and benefit, for the safety and increase of the revenues of the Church, and for the quieting of men's inheritances, and the general good of the commonwealth: in all which we require your advice and careful considerations; and that before you make any certificate to us, you confer with the said Sir Edward, so as all things may be the better cleared.

To all the judges of England, and barons of the Exchequer.

In the library of the late Thomas earl of Leicester, the descendent of Sir Edward Coke, at Holkham in Norfolk, is a copy of the Novum Organum, intitled *Instauratio Magna*, printed by John Bill in 1620, presented to Sir Edward, who at the top of the title page has written *Edw. C. ex dono auctoris.*

Auctori Consilium.
Instaurare paras veterum documenta sophorum:
Instaurare Leges Justitiamq; prius.

And over the device of the ship passing between Hercules's pillars, Sir Edward has written the two following verses:

"It deserveth not to be read in schooles,
But to be freighted in the *Ship of Fools.*"

Alluding to a famous book of Sebastian Brand, born at Strasburgh about 1460, written in Latin and

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High Dutch verse, and translated into English in 1508 by Alexander Barklay, and printed at London the year following by Richard Pynson, printer to Henry VII. and Henry VIII. in folio, with the following title, "The Shyp of Follys of the World: translated in the Coll. of Saynt Mary Otery in the counte of Devonshyre, oute of Latin, Frenche, and Doche, into Englesshe tongue, by Alex. Barklay, preste and chaplen in the said College M,CCCCC,VIII." It was dedicated by the translator to Thomas Cornish, bishop of Tine, and suffragan bishop of Wells, and adorned with great variety of wooden cuts.

THE CHARGE AGAINST MR. WHITELOCKE *.

MY LORDS,

THE offence, wherewith Mr. Whitelocke is charged, for as to Sir Robert Mansell, I take it to my part

* He had been committed, in May 1613, to the Fleet, for speaking too boldly against the marshal's court, and for giving his opinion to Sir Robert Mansell, treasurer of the navy, and vice-admiral, that the commission to the earl of Nottingham, lord high admiral, for reviewing and reforming the disorders committed by the officers of the navy, was not according to law; though Mr. Whitelocke had given that opinion only in private to his client, and not under his hand. Sir Robert Mansell was also committed to the Marshalsea, for animating the lord admiral against the commission. [Sir Ralph Windwood's *Memorials of State*, Vol. III. p. 460.] This Mr. Whitelocke was probably

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only to be sorry for his error, is a contempt of a high nature, and resting upon two parts: on the one, a presumptuous and licentious censure and defying of his majesty's prerogative in general; the other a slander and traducement of one act or emanation hereof, containing a commission of survey and reformation of abuses in the office of the navy.

This offence is fit to be opened and set before your lordships, as it hath been well begun, both in the true state and in the true weight of it. For as I desire, that the nature of the offence may appear in its true colours; so, on the other side, I desire, that the shadow of it may not darken or involve any thing that is lawful, or agreeable with the just and reasonable liberty of the subject.

First, we must and do agree, that the asking,

the same with James Whitelocke, who was born in London 28 November, 1572, educated at Merchant-taylor's school there, and St. John's college in Oxford, and studied law in the Middle Temple, of which he was summer reader in 1619. In the preceding year, 1618, he stood for the place of recorder of the city of London, but was not elected to it, Robert Heath, Esq. being chosen on the 10th of November, chiefly by the recommendation of the king, the city having been told, that they must choose none, whom his majesty should refuse, as he did in particular except to Mr. Whitelocke by name. [MS. letter of Mr. Chamberlain to Sir Dudley Carleton, November 14, 1618.] Mr. Whitelocke, however, was called to the degree of serjeant in Trinity-term 1620, knighted, made chief justice of Chester; and at last, on the 18th of October, 1624, one of the justices of the King's Bench; in which post he died June, 1632. He was father of Bulstrode Whitelocke, Esq.; commissioner of the great seal.

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and taking, and giving of counsel in law is an essential part of justice; and to deny that, is to shut the gate of justice, which in the Hebrews' commonwealth was therefore held in the gate, to shew all passage to justice must be open: and certainly counsel in law is one of the passages. But yet, for all that, this liberty is not infinite and without limits.

If a jesuited papist should come, and ask counsel (I put a case not altogether feigned) whether all the acts of parliament made in the time of queen Elizabeth and king James are void or no; because there are no lawful bishops sitting in the upper house, and a parliament must consist of lords spiritual and temporal and commons; and a lawyer will set it under his hand, that they be all void, I will touch him for high treason upon this his counsel.

So, if a puritan preacher will ask counsel, whether he may stile the king Defender of the Faith, because he receives not the discipline and presbytery; and the lawyer will tell him, it is no part of the king's stile, it will go hard with such a lawyer.

Or if a tribunitious popular spirit will go and ask a lawyer, whether the oath and band of allegiance be to the kingdom and crown only, and not to the king, as was Hugh Spenser's case, and he deliver his opinion as Hugh Spenser did; he will be in Hugh Spenser's danger.

So as the privilege of giving counsel proveth not all opinions: and as some opinions given are traitorous; so are there others of a much inferior nature, which are contemptuous. And among these I

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reckon Mr. Whitelocke's; for as for his loyalty and true heart to the king, God forbid I should doubt it.

Therefore let no man mistake so far, as to conceive, that any lawful and due liberty of the subject for asking counsel in law is called in question when points of disloyalty or of contempt are restrained. Nay, we see it is the grace and favour of the king and his courts, that if the case be tender, and a wise lawyer in modesty and discretion refuseth to be of counsel, for you have lawyers sometimes too nice as well as too bold, they are then ruled and assigned to be of counsel. For certainly counsel is the blind man's guide; and sorry I am with all my heart, that in this case the blind did lead the blind.

For the offence, for which Mr. Whitelocke is charged, I hold it great, and to have, as I said at first, two parts: the one a censure, and, as much as in him is, a circling, nay a clipping, of the king's prerogative in general; the other, a slander and depravation of the king's power and honour in this commission.

And for the first of these, I consider it again in three degrees: first, that he presumed to censure the king's prerogative at all. Secondly, that he runneth into the generality of it more than was pertinent to the present question. And lastly, that he hath erroneously, and falsely, and dangerously given opinion in derogation of it.

First, I make a great difference between the king's grants and ordinary commissions of justice, and the

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king's high commissions of regiment, or mixed with causes of state.

For the former, there is no doubt but they may be freely questioned and disputed, and any defect in matter or form stood upon, though the king be many times the adverse party:

But for the latter sort, they are rather to be dealt with, if at all, by a modest, and humble intimation or remonstrance to his majesty and his council, than by bravery of dispute or peremptory opposition.

Of this kind is that properly to be understood, which is said in Bracton, "De chartis et factis regiis non debent aut possunt justitiarii aut privatæ personæ disputare, sed tutius est, ut expectetur sententia regis."

And the king's courts themselves have been exceeding tender and sparing in it; so that there is in all our law not three cases of it. And in that very case of 24 Ed. III. ass. pl. s. which Mr. Whitelocke vouched, where, as it was a commission to arrest a man, and to carry him to prison, and to seize his goods without any form of justice or examination preceding; and that the judges saw it was obtained by surreption: yet the judges said they would keep it by them, and shew it to the king's council.

But Mr. Whitelocke did not advise his client to acquaint the king's council with it, but presumptuously giveth opinion, that it is void. Nay, not so much as a clause or passage of modesty, as that he submits his opinion to censure: that it is too great a matter for him to deal in; or this is

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my opinion, which is nothing, etc. But "illotis manibus," he takes it into his hands, and pronounceth of it, as a man would scarcely do of a warrant of a justice of peace, and speaks like a dictator, that "this is law," and "this is against law," etc.*

* Sir H. Wotton, in a letter of his to Sir Edmund Bacon, [*Reliq. Wotton*, p. 421. edit. 3rd] written about the beginning of June, 1613, mentions, that Sir Robert Mansell and Mr. Whitelocke were, on the Saturday before, called to a very honourable hearing in the queen's presence-chamber at Whitehall, before the lords of the council, with intervention of the lord chief justice Coke, the lord chief baron Tanfield, and the master of the rolls; the lord chief justice of the King's Bench, Fleming, being kept at home by some infirmity. There the attorney and solicitor first undertook Mr. Whitelocke, and the recorder [Henry Montagu], as the king's serjeant, Sir Robert Mansell, charging the one as a counsellor, the other as a questioner, in matters of the king's prerogative and sovereignty upon occasion of a commission intended for a research into the administration of the admiralty. "Whitelocke in his answer," adds Sir Henry Wotton, "spake more confusedly than was expected from a lawyer; and the knight more temperately than was expected from a soldier . . . . Whitelocke ended his speech with an absolute confession of his own offence, and with a promise of employing himself hereafter in defence of the king's prerogative . . . . In this they generally agreed, both counsellors and judges, to represent the humiliation of both the prisoners to the king, in lieu of innocency, and to intercede for his gracious pardon: which was done, and accordingly the next day they were inlarged upon a submission under writing."

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ROBERT EARL OF SOMERSET TO SIR THOMAS OVERBURY *.
FROM A COPY AMONG LORD BACON'S PAPERS IN THE LAMBETH LIBRARY.

SIR,

I HAVE considered that my answer to you, and what I have otherwise to say, will exceed the bounds of a letter; and now having not much time to use betwixt my waiting on the king, and the removes we do make in this our little progress, I thought fit to use the same man to you, whom I have heretofore many times employed in the same business. He has, besides an account and a better description of me to give you, to make a repetition of the former carriages of all this business, that you may distinguish that, which he did by knowledge of mine and direction, and betwixt that he did out of his own discretion without my warrant. With all this he has to renew to you a former desire of mine, which was the ground-work of this, and the chief errand of his coming to you, wherein I desire your answer by him. I would not employ this gentleman to you, if he were, as you conceit of him, your unfriend, or an ill instrument betwixt us. So owe him the testimony of one, that has spoken as honestly, and given more praises of you, than any man, that has spoken to me.

* He was committed to the Tower on the 21st of April, 1613, and died there of poison on the 15th of September following.

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My haste at this time makes me to end sooner than I expected: but the subject of my next sending shall be to answer that part you give me in your love, with a return of the same from

Your assured loving friend,

R. SOMERSET.

Indorsed,

Lord Somerset's first letter.

TO THE KING.

IT MAY PLEASE YOUR MOST EXCELLENT MAJESTY,

WE have, with all possible care and diligence, considered Cotton's* cause, the former and the latter,

* The case of this gentleman will render the detail of it necessary for the illustration of this letter; and the circumstances of it, not known in our history, may be thought to deserve the reader's attention. He was a native of the West of England and a recusant, against whom a proclamation was issued in June 1613, charging him with high treason against the king and state for having published a very scandalous and railing book against his majesty, under the title of *Balaam's Ass*, which was dropped in the gallery at Whitehall. Just at the time of publishing this proclamation, he happened to cross the Thames, and enquiring of the watermen what news? they, not knowing him, told him of the proclamation. At landing, he muffled himself up in his cloke, to avoid being known; but had not gone many paces, when one Mr. Maine, a friend of his, meeting and discovering him, warned him of his danger; and being asked what he would advise him to do, recommended it to him to surrender himself; which he did to the earl of Southampton. He denied himself to be the author of the libel: but his study being searched, among his papers were found many parts of the book, together with relics of those persons, who had

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touching the book and the letter in the gilt apple, and have advisedly perused and weighed all the examinations and collections which were formerly

been executed for the gun-powder treason, as one of Sir Everard Digby's fingers, a toe of Thomas Percy, some other part of Catesby or Rookewood, and a piece of one of Peter Lambert's ribs. He was kept prisoner in the Tower till March 1618, when the true author of the libel was discovered to be John Williams, Esq., a barrister of the Middle Temple, who had been expelled the house of commons on account of his being a papist. The discovery was owing to this accident: a pursuivant in want of money, and desirous to get some by his employment, waited at the Spanish ambassador's door, to see if he could light upon any prey. At last came out Mr. Williams, unknown to the pursuivant; but carrying, in his conceit, the countenance of a priest. The pursuivant, therefore, followed him to his inn, where Williams having mounted his horse, the pursuivant came to him, and told him, that he must speak a word or two with him. "Marry, with all my heart, *said Williams*; what is your pleasure?" *You must light*, answered the pursuivant; *for you are a priest.* "A priest? *replied Williams*; I have a good warrant to the contrary, for I have a wife and children." Being, however, obliged to dismount, the pursuivant searched him; and in his pocket was found a bundle of papers sealed up; which the pursuivant going to open, Williams made some resistance, pretending they were evidences of a gentleman whose law-businesses he transacted. The pursuivant insisting upon opening the papers, among them was found *Balaam's Ass*, with new annotations; of which, upon examination, *Williams* confessed himself to be the author. He was brought to trial on the 3d of May, 1619, for writing that and another book intitled *Speculum Regale*; in both of which he had presumed to prophesy, that the king would die in 1621, grounding this prediction on the prophecy of Daniel, where the prophet speaks of *time and times, and half a time.* He farther affirmed, that

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taken; wherein we might attribute a good deal of worthy industry and watchful inquiry to my lord of Canterbury. We thought fit also to take some new

Antichrist will be revealed when sin shall be at the highest, and then the end is nigh: that such is our time; sin is now at the highest; *ergo* that the land is the abomination of desolation mentioned by Daniel, and the habitation of devils, and the antimark of Christ's Church. Williams's defence was, 1. That what he had written was not with any malice or disloyalty of heart towards the king, but purely from affection, and by way of caution and admonition, that his majesty might avoid the mischiefs likely to befal him; having added in his book, when he delivered the threats of judgment and destruction, *which God avert*, or such words. 2. That the matter rested only in opinion and thought, and contained no overt act; no rebellion, treason, or other mischief following it. 3. That he had inclosed his book in a box sealed up, and secretly conveyed it to the king, without ever publishing it. But the court was unanimously of opinion, that he was guilty of high treason; and that the words contained in the libel, as cited above, imported the end and destruction of the king and his realm; and that antichristianism and false religion were maintained in the said realm; which was a motive to the people to commit treasons, to raise rebellions, &c. and that the writing of the book was a publication. *Reports of Henry Rolle, serjeant at law, part* II. p. 88. In consequence of this judgment he had a sentence of death passed upon him, which was executed over against Charing-cross two days after. MS. letters of Mr. Thomas Lorkin to Sir Thomas Puckering, Bart. dated at London, June the 24th and 30th, 1613, and March the 16th, 1618-9, and May the 4th and 5th, 1619, among the Harleian MSS. Vol. 7002. At his death he adhered to his profession of the Roman Catholic religion, and died with great resolution. He prayed for the king and prince; and said, that he was sorry for having written so saucily and irreverently; but pretended that he had an inward

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examinations; which was the cause we certified no sooner. Upon the whole matter, we find the cause of his imprisonment just, and the suspicions and presumptions many and great; which we little need to mention, because your majesty did relate and inforced them to us in better perfection, than we can express them. But, nevertheless, the proofs seem to us to amount to this, that it was possible he should be the man; and that it was probable likewise, he was the man: but no convicting proofs, that may satisfy a jury of life and death, or that may make us take it upon our conscience, or to think it agreeable to your majesty's honour, which next our conscience to God, is the dearest thing to us on earth, to bring it upon the stage: which not-

warrant and particular illumination to understand certain hard passages of Daniel and the Revelation, which made him adventure so far. MS. letter of John Chamberlain, Esq. to Sir Dudley Carleton, dated at London, May 8, 1619.

This case was urged against the *seven bishops* at their trial in king James II.'s reign by Sir William Williams, then solicitor-general, who observed, *Trial*, p. 76, that it had been made use of by Mr. solicitor-general Finch on the trial of Col. Sidney, and was the great "case relied upon, and that guided and governed that case;" though there is nothing of this, that appears in the printed trial of Sidney.

It is but justice to the memory of our great antiquary, Sir Robert Cotton, Bart. to remark here a mistake of Dr. Thomas Smith in his life of Sir Robert, p. 26. prefixed to his catalogue of the Cottonian library, where he has confounded the Cotton, mentioned in the beginning of this note, with Sir Robert Cotton, and erroneously supposed, that the suspicion of having written the libel had fallen upon the latter.

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withstanding we, in all humbleness, submit to your majesty's better judgment. For his liberty, and the manner of his delivery, he having so many notes of a dangerous man, we leave it to your princely wisdom. And so commending your majesty to God's precious custody, we rest

Your Majesty's most humble and bounden servants,

FR. BACON.
H. MONTAGU.
H. YELVERTON.

22 Jan. 1613.

TO JOHN MURRAY * OF THE BED-CHAMBER TO THE KING †.

MR. MURRAY,

I KEEP the same measure in a proportion with my master and with my friend; which is, that I will never deceive them in any thing, which is in my power; and when my power faileth my will, I am sorry.

Monday is the day appointed for performing his majesty's commandment. Till then I cannot tell what to advise you farther, except it should be this, that in case the judges should refuse to take order in it themselves, then you must think of some war-

* He was created Viscount of Annan in Scotland, in August, 1622. *Negotiations of Sir Thomas Roe, in his embassy to the Ottoman Porte*, p. 93. In April, 1624, the lord Annan was created earl of Annandale in Scotland. Ibid. p. 250.

† This, and the three following letters, are printed from Harl. MSS. Vol. 6986.

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rant to Mr. Secretary, who is your friend, and constant in the businesses, that he see forthwith his majesty's commandment executed, touching the double lock; and, if need be, repair to the place, and see by view the manner of keeping the seal; and take order, that there be no stay for working of the seal of justice, nor no prejudice to Killegrew's farm, nor to the duty of money paid to the chief justice. Whether this may require your presence, as you write, that yourself can best judge. But of this more, when we have received the judges answer. It is my duty, as much as in me is, to procure my master to be obeyed. I ever rest

Your friend and assured

FR. BACON.

January 21, 1614.

I pray deliver the inclosed letter to his majesty.

To his very good friend Mr. John Murray, of his majesty's bed-chamber.

TO MR. MURRAY.

MR. MURRAY,

MY Lord Chancellor, yesterday in my presence, had before him the judges of the common pleas, and hath performed his majesty's royal command in a very worthy fashion, such as was fit for our master's greatness; and because the king may know it, I send you the inclosed. This seemeth to have wrought the effect desired; for presently I sent for Sir Richard

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Cox*, and willed him to present himself to my lord Hobart, and signify his readiness to attend. He came back to me, and told me, all things went on. I know not what afterwards may be; but I think this long chace is at an end. I ever rest

Your's assured,

FR. BACON.

January 25, 1614.

TO MR. MURRAY.

MR. MURRAY,

I PRAY deliver the inclosed to his majesty, and have care of the letter afterwards. I have written also to his majesty about your reference to this purpose, that if you can get power over the whole title, it may be safe for his majesty to assent, that you may try the right upon the deed. This is the farthest I can go. I ever rest Your's assured,

FR. BACON.

February 28, 1614.

TO THE KING.

MAY IT PLEASE YOUR MOST EXCELLENT MAJESTY,

I SEND your majesty inclosed, a copy of our last

* He was one of the masters of the green cloth, and had had a quarrel at court during the Christmas holy-days of the year 1614, with Sir Thomas Erskine; which quarrel was made up by the lords of the marshal's court, Sir Richard being obliged to put up with very foul words. MS. letter of Mr. Chamberlain to Sir Dudley Carleton, January 12, 1614-5.

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examination of Peacham*, taken the 10th of this present; whereby your majesty may perceive, that

* Edmund Peacham, a minister in Somersetshire [MS. letter of Mr. Chamberlain, dated January 5, 1614-5.] I find one of both his names, who was instituted into the vicarage of Ridge, in Hertfordshire, July 22, 1581, and resigned it in 1587. [Newcourt, *Repertor*, Vol. I. p. 864.] Mr. Peacham was committed to the Tower for inserting several treasonable passages in a sermon *never preached, nor*, as Mr. Justice Croke remarks in his *Reports* during the reign of king Charles I., p. 125, *ever intended to be preached.* Mr. Chamberlain, in a letter of the 9th of February, 1614-5, to Sir Dudley Carleton, mentions Mr. Peacham's having been "stretched already, though he be an old man, and, they say, much above threescore: but they could wring nothing out of him more than they had at first in his papers. Yet the king is extremely incensed against him, and will have him prosecuted to the uttermost." In another letter, dated February 23, we are informed, that the king, since his coming to London on the 15th, had had "the opinion of the judges severally in Peacham's case; and it is said, that most of them concur to find it treason: yet my lord chief justice [Coke] is for the contrary; and if the lord Hobart, that rides the western circuit, can be drawn to jump with his colleague, the chief baron [Tanfield] it is thought he shall be sent down to be tried, and trussed up in Somersetshire." In a letter of the 2d of March, 1614-5, Mr. Chamberlain writes, "Peacham's trial at the western assizes is put off, and his journey stayed, though Sir Randall Crew, the king's serjeant, and Sir Henry Yelverton, the solicitor, were ready to go to horse to have waited on him there." "Peacham, the minister, *adds he in a letter of the 13th of July*, 1615, that hath been this twelvemonth in the Tower, is sent down to be tried for treason in Somersetshire before the lord chief baron and Sir Henry Montagu the recorder. The lord Hobart gave over that circuit the last assizes. Sir Randall Crew and Sir Henry Yelverton, the king's serjeant and solicitor, are sent down to prosecute the trial." The event of this trial, which was

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this miscreant wretch goeth back from all, and denieth his hand and all. No doubt, being fully of belief, that he should go presently down to his trial, he meant now to repeat his part, which he purposed to play in the country, which was to deny all. But your majesty in your wisdom perceiveth, that this denial of his hand, being not possible to be counterfeited, and to be sworn by Adams, and so oft by himself formerly confessed and admitted, could not mend his case before any jury in the world, but rather aggravateth it by his notorious impudency and falsehood, and will make him more odious. He never deceived me; for when others had hopes of discovery, and thought time well spent that way, I told your majesty "pereuntibus mille figuræ;" and that he now did but turn himself into divers shapes, to save or delay his punishment. And therefore submitting myself to your majesty's high wisdom, I think myself bound in conscience to put your majesty in remembrance, whether Sir John Sydenham* shall be de-

on the 7th of August, appears from Mr. Chamberlain's letter of the 14th of that month, wherein, it is said, that "seven knights were taken from the bench, and appointed to be of the jury. He defended himself very simply, but obstinately and doggedly enough. But his offence was so foul and scandalous, that he was condemned of high treason; yet not hitherto executed, nor perhaps shall be, if he have the grace to submit himself, and shew some remorse." He died, as appears from another letter of the 27th of March, 1616, in the jail at Taunton, where he was said to have "left behind a most wicked and desperate writing, worse than that he was convicted for."

* He had been confronted about the end of February, or be-

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tained upon this man's impeaching, in whom there is no truth. Notwithstanding, that farther inquiry be made of this other Peacham, and that information and light be taken from Mr. Poulet* and his servants, I hold it, as things are, necessary. God preserve your majesty.

Your Majesty's most humble
and devoted subject and servant,
FR. BACON.

March 12, 1614.

SUPPLEMENT OF TWO PASSAGES OMITTED IN THE EDITION OF SIR FRANCIS BACON'S SPEECH IN THE KING'S BENCH, AGAINST OWEN †, AS PRINTED IN HIS WORKS. AFTER THE WORDS [IT IS BOTTOMLESS] IN THE PARAGRAPH BEGINNING [FOR THE TREASON ITSELF, WHICH IS THE SECOND POINT, ETC.] ADD

[I said in the beginning, that this treason in the

ginning of March, 1614-5, with Mr. Peacham, about certain speeches, which had formerly passed between them. MS. letter of Mr. Chamberlain to Sir Dudley Carleton, from London, March 2, 1614-5.

* John Poulet, Esq.; knight of the shire for the county of Somerset in the parliament, which met April 5, 1614. He was created lord Poulet of Henton St. George, June 23, 1627.

† He was of the family of that name at Godstow, in Oxfordshire ‡. [*Camdeni Annales Regis Jacobi I.* p. 12.] He was a young man, who had been in Spain; and was condemned at the King's Bench, on Wednesday, May 17, 1615, " for divers most vile and traiterous speeches confessed and subscribed with his

‡ See ante Vol. VI. p. 174.

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nature of it was old. It is not of the treasons, whereof it may be said "from the beginning it was not so." You are indicted, Owen, not upon any statute made against the Pope's supremacy, or other matters, that have reference to religion; but merely upon that law, which was born with the kingdom, and was law even in superstitious times, when the pope was received. The compassing and imagining of the king's death was treason. The statute of the 25th of Edward III. which was but declaratory, begins with this article, as the capital of capitals in treason, and of all others the most odious and the most perilous.] And so the civil law, etc.

At the conclusion of his speech after the words ["the duke of Anjou and the papists"] add

[As for subjects, I see not, or ever could discern, but that by infallible consequence, it is the case of all subjects and people, as well as of kings; for it is all one reason, that a bishop, upon an excommunication of a private man, may give his lands and goods in spoil, or cause him to be slaughtered, as for the pope to do it towards a king; and for a bishop to absolve the son from duty to the father, as for the pope to absolve the subject from his allegiance to his king.

own hand; as, among others, that it was as lawful for any man to kill a king excommunicated, as for the hangman to execute a condemned person. He could say little for himself, or in maintenance of his desperate positions, but only that he meant it not by the king, and he holds him not excommunicate." MS. letter of Mr. Chamberlain to Sir Dudley Carleton from London, May 20, 1615.

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And this is not my inference, but the very affirmative of pope Urban the second, who in a brief to Godfrey, bishop of Luca, hath these very words, which cardinal Baronius reciteth in his Annals, Tom. XI. p. 802. "Non illos homicidas arbitramur, qui adversus excommunicatos zelo catholicæ matris ardentes eorum quoslibet trucidare contigerit," speaking generally of all excommunications.]

TO THE KING*.

IT MAY PLEASE YOUR EXCELLENT MAJESTY,

I RECEIVED this very day, in the forenoon, your majesty's several directions touching your cause prosecuted by my lord Hunsdon† as your farmer. Your first direction was by Sir Christopher Parkins, that the day appointed for the judicial sentence should hold: and if my lord chief justice, upon my repair to him, should let me know, that he could not be present, then my lord chancellor should proceed, calling to him my lord Hobart, except he should be excepted to; and then some other judge by consent. For the latter part of this your direction, I suppose, there would have been no difficulty in admitting my lord Hobart; for after he had assisted at so many hearings, it would have been too late to except to him. But then your majesty's second and

* Harl. MSS. Vol. 6986.

† John Carey, Baron of Hunsdon. He died in April, 1617.

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later direction, which was delivered unto me from the earl of Arundel, as by word of mouth, but so as he had set down a remembrance thereof in writing freshly after the signification of his pleasure, was to this effect, that before any proceeding in the chancery, there should be a conference had between my lord chancellor, my lord chief justice, and myself, how your majesty's interest might be secured. This later direction I acquainted my lord chancellor with; and finding an impossibility, that this conference should be had before to-morrow, my lord thought good, that the day be put over, taking no occasion thereof other than this, that in a cause of so great weight it was fit for him to confer with his assistants, before he gave any decree or final order. After such a time as I have conferred with my lords, according to your commandment, I will give your majesty account with speed of the conclusion of that conference.

Farther, I think fit to let your majesty know, that in my opinion I hold it a fit time to proceed in the business of the "Rege inconsulto," which is appointed for Monday. I did think these greater causes would have come to period or pause sooner: but now they are in the height, and to have so great a matter as this of the "Rege inconsulto" handled, when men do "aliud agere," I think it no proper time. Besides, your majesty in your great wisdom knoweth, that this business of Mr. Murray's is somewhat against the stream of the judges inclination: and it is no part of a skilful mariner to sail on

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against a tide, when the tide is at strongest. If your majesty be pleased to write to my lord Coke, that you would have the business of the "Rege inconsulto" receive a hearing, when he should be "animo sedato et libero," and not in the midst of his assiduous and incessant cares and industries in other practices, I think your majesty shall do your service right. Howsoever, I will be provided against the day.

Thus praying God for your happy preservation, whereof God giveth you so many great pledges,

I rest your Majesty's most humble
and devoted subject and servant,

FR. BACON.

November 17, 1615.

Innovations introduced into the laws and government*.

1. The ecclesiastical commission.	In this he prevailed, and the commission was pared, and namely the point of alimony left out, whereby wives are left wholly to the tyranny of their husbands. This point, and some others, may require a review, and is fit to be restored to the commission.
2. Against the provincial councils.	In this he prevailed in such sort, as the precedents are continually suitors for the

* This paper was evidently designed against the lord chief justice Coke.

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enlargement of the instructions, sometimes in one point, sometimes in another; and the jurisdictions grow into contempt, and more would, if the lord chancellor did not strengthen them by injunctions, where they exceed not their instructions.

3. Against the star-chamber for levying damages.

In this he was over-ruled by the sentence of the court; but he bent all his strength and wits to have prevailed; and so did the other judges by long and laborious arguments: and if they had prevailed, the authority of the court had been overthrown. But the plurality of the court took more regard to their own precedents, than to the judges opinion.

4. Against the admiralty.

In this he prevaileth, for prohibitions fly continually; and many times are cause of long suits, to the discontent of foreign ambassadors, and the king's dishonour and trouble by their remonstrances.

5. Against the court

This is new, and would be

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of the duchy of Lancaster prohibitions go; and the like may do to the court of wards and exchequer.

forthwith restrained, and the others settled.

6. Against the court of requests.

In this he prevaileth; and this but lately brought in question.

7. Against the chancery for decrees after judgment.

In this his majesty hath made an establishment: and he hath not prevailed, but made a great noise and trouble.

8. Præmunire for suits in the chancery.

This his majesty hath also established, being a strange attempt to make the chancellor sit under a hatchet, instead of the king's arms.

9. Disputed in the common pleas, whether that court may grant a prohibition to stay suits in the chancery, and time given to search for precedents.

This was but a bravery, and dieth of itself, especially the authority of the chancery by his majesty's late proceedings being so well established.

10. Against the new boroughs in Ireland.

This in good time was overruled by the voice of eight judges of ten, after they had

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heard your attorney. And had it prevailed, it had overthrown the parliament of Ireland, which would have been imputed to a fear in this state to have proceeded; and so his majesty's authority and reputation lost in that kingdom.

11. Against the writs "Dom. Rege inconsulto."

This is yet "sub judice:" but if it should prevail, it maketh the judges absolute over the patents of the king, be they of power and profit, contrary to the ancient and ever continued law of the crown; which doth call those causes before the king himself, as he is represented in chancery.

12. Against contribution, that it was not law neither to levy it, nor to move for it.

In this he prevailed, and gave opinion, that the king by his great seal could not so much as move any his subjects for benevolence. But this he retracted after in the star-chamber; but it marred the benevolence in the mean time.

13. Peacham's case.

In this, for as much as in him was, and in the court of

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king's bench, he prevailed, though it was holpen by the good service of others. But the opinion, which he held, amounted in effect to this, that no word of scandal or defamation, importing that the king was utterly unable or unworthy to govern, were treason, except they disabled his title, etc.

14. Owen's case.

In this we prevailed with him to give opinion it was treason: but then it was upon a conceit of his own, that was no less dangerous, than if he had given his opinion against the king: for he proclaimed the king excommunicate in respect of the anniversary bulls of "Cœna Domini," which was to expose his person to the fury of any jesuited conspirator.

15. The value of benefices not to be according to the tax in the king's book of taxes.

By this the intent of the statute of 21 Henry VIII. is frustrated; for there is no benefice of so small an improved value as 8*l.* by that kind of rating. For this the judges may be assembled in

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the exchequer for a conference.

16. Suits for legacies ought to be in their proper dioceses, and not in the prerogative court; although the will be proved in the prerogative court upon "bona notabilia" in several dioceses, commendams, etc.

The practice hath gone against this; and it is fit, the suit be where the probate is. And this served but to put a pique between the archbishops courts and the bishops courts. This may be again propounded upon a conference of the judges.

SIR FRANCIS BACON TO SIR GEORGE VILLIERS, TOUCHING THE EXAMINATION OF SIR ROBERT COTTON UPON SOME INFORMATION OF SIR JOHN DIGBY *.

I RECEIVED your letter yesterday towards the even-

* Secretary Winwood, in a private letter to Sir Thomas Edmondes, printed in the *Historical View of the Negotiations between the Courts of England, France, and Brussels*, p. 392, mentions, that there was great expectation, that Sir John Digby, just then returned from Spain, where he had been ambassador, could charge the earl of Somerset with *some treasons and plots with Spain*. "To the king," *adds Sir Ralph*, "as yet he hath used no other language, but that, having served in a place of honour, it would ill become him to be an accuser. Legally or criminally he can say nothing: yet this he says and hath written, that all his private dispatches, wherein he most discovered the practices of Spain, and their intelligences, were presently sent into Spain; which could not be but by the treachery of Somerset."

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ing, being the 8th of this present, together with the interrogatory included, which his majesty hath framed, not only with a great deal of judgment what to interrogate, but in a wise and apt order; for I do find that the degrees of questions are of great efficacy in examination. I received also notice and direction by your letter, that Sir Robert Cotton was first thoroughly to be examined; which indeed was a thing most necessary to begin with; and that for that purpose Sir John Digby was to inform my lord chancellor of such points, as he conceived to be material; and that I likewise should take a full account for my lord chief justice of all Sir Robert Cotton's precedent examinations. It was my part then to take care, that that, which his majesty had so well directed and expressed, should be accordingly performed without loss of time. For which purpose, having soon after the receipt of your letter received a letter from my lord chancellor, that he appointed Sir John Digby to be with him at two of the clock in the afternoon, as this day, and required my presence, I spent the mean time, being this forenoon, in receiving the precedent examinations of Sir Robert Cotton from my lord chief justice, and perusing of them; and accordingly attended my lord chancellor at the hour appointed, where I found Sir John Digby.

At this meeting it was the endeavour of my lord chancellor and myself to take such light from Sir John Digby, as might evidence first the examination of Sir Robert Cotton; and then to the many exa-

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minations of Somerset; wherein we found Sir John Digby ready and willing to discover unto us what he knew; and he had also, by the lord chancellor's direction, prepared some heads of examination in writing for Sir Robert Cotton; of all which use shall be made for his majesty's service, as is fit. Howbeit, for so much as did concern the practice of conveying the prince into Spain, or the Spanish pensions, he was somewhat reserved upon this ground, that they were things his majesty knew, and things, which by some former commandment from his majesty he was restrained to keep in silence, and that he conceived they could be no ways applied to Somerset. Wherefore it was not fit to press him beyond that, which he conceived to be his warrant, before we had known his majesty's farther pleasure; which I pray you return unto us with all convenient speed. I for my part am in no appetite for secrets; but nevertheless seeing his majesty's great trust towards me, wherein I shall never deceive him; and that I find the chancellor of the same opinion, I do think it were good my lord chancellor chiefly and myself were made acquainted with the persons and the particulars; not only because it may import his majesty's service otherwise, but also because to my understanding, for therein I do not much rely upon Sir John Digby's judgment, it may have a great connection with the examination of Somerset, considering his mercenary nature, his great undertaking for Spain in the match, and his favour with his majesty; and therefore the circum-

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stances of other pensions given cannot but tend to discover whether he were pensioner or no.

But herein no time is lost; for my lord chancellor, who is willing, even beyond his strength, to lose no moment for his majesty's service, hath appointed me to attend him Thursday morning for the examination of Sir Robert Cotton, leaving to-morrow for council-business to my lord, and to me for considering of fit articles for Sir Robert Cotton.

10 April, 1616.

SIR FRANCIS BACON TO THE JUDGES.

MY LORD,

It is the king's express pleasure, that because his majesty's time would not serve to have conference with your lordship and his judges touching his cause of commendams at his last being in town, in regard of his majesty's other most weighty occasions; and for that his majesty holdeth it necessary, upon the report, which my lord of Winchester, who was present at the last argument by his majesty's royal commandment, made to his majesty, that his majesty be first consulted with, ere there be any further proceeding by argument by any of the judges or otherwise: Therefore, that the day appointed for the farther proceeding by argument of the judges in that case be put off till his majesty's farther pleasure be known upon consulting him; and to that end, that your lordship forthwith signify his com-

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mandment to the rest of the judges; whereof your lordship may not fail. And so I leave your lordship to God's goodness.

Your loving friend to command,

FR. BACON.

This Thursday at afternoon,
the 25th of April, 1616.

QUESTIONS LEGAL FOR THE JUDGES [IN THE CASE OF THE EARL AND COUNTESS OF SOMERSET.*]

WHETHER the ax is to be carried before the prisoner, being in the case of felony?

Whether, if the lady make any digression to clear his lordship, she is not by the lord Steward to be interrupted and silenced?

Whether, if my lord of Somerset should break forth into any speech of taxing the king, he be not presently by the lord Steward to be interrupted and silenced; and, if he persist, he be not to be told, that if he take that course, he is to be withdrawn, and evidence to be given in his absence? And whether that may be; and what else to be done?

Whether if there should be twelve votes to condemn, and twelve or thirteen to acquit, it be not a verdict for the king?

* See Vol. VI. page 201.

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QUESTIONS OF CONVENIENCE, WHEREUPON HIS MAJESTY MAY CONFER WITH SOME OF HIS COUNCIL.

WHETHER, if Somerset confess at any time before his trial, his majesty shall stay trial in respect of farther examination concerning practice of treason, as the death of the late prince, the conveying into Spain of the now prince, or the like; for till he confess the less crime, there is [no] likelihood of confessing the greater?

Whether, if the trial upon that reason shall be put off, it shall be discharged privately by dissolving the commission, or discharging the summons? Or whether it shall not be done in open court, the peers being met, and the solemnity and celebrity preserved; and that with some declaration of the cause of putting off the farther proceeding?

Whether the days of her trial and his shall be immediate, as it is now appointed; or a day between, to see, if, after condemnation, the lady will confess of this lord; which done, there is no doubt but he will confess of himself?

Whether his trial shall not be set first, and hers after, because then any conceit, which may be wrought by her clearing of him, may be prevented; and it may be he will be in the better temper, hoping of his own clearing, and of her respiting?

What shall be the days; for Thursday and Friday can hardly hold in respect of the summons; and it

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may be as well Friday and Saturday, or Monday and Tuesday, as London makes it already?

A PARTICULAR REMEMBRANCE FOR HIS MAJESTY.

It were good, that after he is come into the Hall, so that he may perceive he must go to trial, and shall be retired into the place appointed, till the court call for him, then the lieutenant should tell him roundly, that if in his speeches he shall tax the king*, that

* The king's apprehension of being *taxed* by the earl of Somerset on his trial, though for what is not known, accounts in some measure for his majesty's extreme uneasiness of mind till that trial was over, and for the management used by Sir Francis Bacon in particular, as appears from his letters, to prevail upon the earl to submit to be tried, and to keep him in temper during his trial, *lest he*, as the king expressed it in an apostile on Sir Francis's letter of the 28th of April, 1616, *upon the one part commit unpardonable errors, and I on the other seem to punish him in the spirit of revenge.* See more on this subject in Mr. Mallet's *Life of the lord chancellor Bacon*, who closes his remarks with a reference to a letter of Somerset to the king, printed in the *Cabala*, and written in an high style of expostulation, and shewing, through the affected obscurity of some expressions, that there was an important secret in his keeping, of which his majesty dreaded a discovery. The earl and his lady were released from their confinement in the Tower in January, 1621-2, the latter dying August 23, 1632, leaving one daughter Anne, then sixteen years of age, afterwards married to William lord Russel, afterwards earl, and at last duke of Bedford. The earl of Somerset survived his lady several years, and died in July, 1645, being interred on the 17th of that month in the church of St. Paul's, Covent-Garden.

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the justice of England is, that he shall be taken away, and the evidence shall go on without him; and then all the people will cry "away with him;" and then it shall not be in the king's will to save his life, the people will be so set on fire.

Indorsed,

Memorial touching the course to be had in my lord of Somerset's arraignment.

THE HEADS OF THE CHARGE AGAINST ROBERT EARL OF SOMERSET.

Apostyle of the king.

Ye will doe well to remember lykewayes in your præamble, that insigne, that the only zeal to justice maketh me take this course. I have commandit you not to expatiate, nor digresse upon any other points, that maye not serve clearlie for probation or inducement of that point, quhairof he is accused.

First it is meant, that Somerset shall not be charged with any thing by way of aggravation, otherwise than as conduceth to the proof of the impoisonment.

For the proofs themselves, they are distributed into four:

The first to prove the malice, which Somerset bore to Overbury, which was the motive and ground of the impoisonment.

The second is to prove the preparations unto the impoisonment, by plotting his imprisonment, placing his

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keepers, stopping access of friends, etc.

The third is the acts of the impoisonments themselves.

And the fourth is acts subsequent, which do vehemently argue him to be guilty of the impoisonment.

For the first two heads, upon conference, whereunto I called serjeant Montagu and serjeant Crew, I have taken them two heads to myself; the third I have allotted to serjeant Montagu; and the fourth to serjeant Crew.

In the first of these, to my understanding, is the only tenderness: for on the one side, it is most necessary to lay a foundation, that the malice was a deep malice, mixed with fear, and not only matter of revenge upon his lordship's quarrel: for "periculum periculo vincitur;" and the malice must have a proportion to the effect of it, which was the impoisonment: so that if this foundation be not laid, all the evidence is weakened.

On the other side, if I charge him, or could charge him, by way of aggravation, with matters tending to disloyalty or treason, then he is like to grow desperate.

Therefore I shall now set down perspicuously what course I mean to hold, that your majesty may be pleased to direct and correct it, preserving the strength of the evidence: and this I shall now do, but shortly and without ornament.

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First, I shall read some passages of Overbury's letters, namely these: "Is this the fruit of nine years love, common secrets, and common dangers?" In another letter: "Do not drive me to extremity to do that, which you and I shall be sorry for." In another letter: "Can you forget him, between whom such secrets of all kinds have passed?" etc.

Then will I produce Simcock, who deposeth from Weston's speech, that Somerset told Weston, that, "if ever Overbury came out of prison, one of them must die for it."

Then I will say what these secrets were. I mean not to enter into particulars, nor to charge him with disloyalty, because he stands to be tried for his life upon another crime. But yet by some taste, that I shall give to the peers in general, they may conceive of what nature those secrets may be. Wherein I will take it for a thing notorious, that Overbury was a man, that always carried himself insolently, both towards the queen, and towards the late prince: that he was a man, that carried Somerset on in courses separate and opposite to the privy council: that he was a man of nature fit to be an incendiary of a state: full of bitterness and wildness of speech and project: that he was thought also lately to govern Somerset, insomuch that in his own letters he vaunted, "that from him proceeded Somerset's fortune, credit, and understanding."

This course I mean to run in a kind of generality, putting the imputations rather upon Overbury than Somerset; and applying it, that such a

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nature was like to hatch dangerous secrets and practices. I mean to shew likewise what jargons there were and cyphers between them, which are great badges of secrets of estate, and used either by princes and their ministers of state, or by such as practise against princes. That your majesty was called *Julius* in respect of your empire; the queen *Agrippina*, though Somerset now saith it was *Livia*, and that my lady of Suffolk was *Agrippina*; the bishop of Canterbury *Unctius*; Northampton, *Dominic*; Suffolk, first *Lerma*, after *Wolsey*; and many others; so as it appears they made a play both of your court and kingdom; and that their imaginations wrought upon the greatest men and matters.

Neither will I omit Somerset's breach of trust to your majesty, in trusting Overbury with all the dispatches, things, wherewith your council of estate itself was not many times privy or acquainted: and yet this man must be admitted to them, not cursorily, or by glimpses, but to have them by him, to copy them, to register them, to table them, etc.

Apostyle of the king.

This evidence cannot be given in without making me his accuser, and that upon a very slight ground. As for all the subsequent evidences, they are all so little evi-

I shall also give in evidence, in this place, the slight account of that letter, which was brought to Somerset by Ashton, being found in the fields soon after the late prince's death, and was directed to Antwerp, containing these

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dent, as una litura *may serve thaime all.*

words, "that the first branch was cut from the tree, and that he should, ere long, send happier and joyfuller news."

Which is a matter I would not use, but that my lord Coke, who hath filled this part with many frivolous things, would think all lost, except he hear somewhat of this kind. But this it is to come to the leavings of a business.

Nothing to Somerset, and declared by Franklin after condemnation.

And for the rest of that kind, as to speak of that particular, that Mrs. Turner did at Whitehall shew to Franklin the man, who, as she said, poisoned the prince, which, he says, was a physician with a red beard.

Nothing to Somerset, and a loose conjecture.

That there was a little picture of a young man in white wax, left by Mrs. Turner with Forman the conjurer, which my lord Coke doubted was the prince.

No better than a gazette, or passage of Gallo Belgicus.

That the viceroy of the Indies at Goa reported to an English factor, that prince

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Henry came to an untimely death by a mistress of his.

Nothing yet proved against Lowbell.

That Somerset, with others, would have preferred Lowbell the apothecary to prince Charles.

Nothing to Somerset.

That the countess laboured Forman and Gresham, the conjurers, to inforce the queen by witchcraft to favour the countess.

Declared by Franklin after condemnation.

That the countess told Franklin, that when the queen died, Somerset should have Somerset-house.

Nothing to Somerset.

That Northampton said, the prince, if ever he came to reign, would prove a tyrant.

Nothing to Somerset.

That Franklin was moved by the countess to go to the Palsgrave, and should be furnished with money.

The particular reasons, why I omit them, I have set in the margin; but the general is partly to do a kind of right to justice, and such a solemn trial, in not giving that in evidence, which touches not the delinquent, or is not of weight; and partly to observe your majesty's direction, to give Somerset no just occasion of despair or flushes.

But I pray your majesty to pardon me, that I have troubled your majesty with repeating them,

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lest you should hear hereafter, that Mr. Attorney hath omitted divers material parts of the evidence.

Indorsed,

Somerset's business and charge, with his Majesty's postiles.

TO SIR GEORGE VILLIERS.

SIR,

Your man made good haste; for he was with me yesterday about ten of the clock in the forenoon. Since I held him.

The reason, why I set so small a distance of time between the use of the little charm, or, as his majesty better terms it, "the evangile*," and the day of his trial† notwithstanding his majesty's being so far off, as advertisement of success and order thereupon could not go and come between, was chiefly, for that his majesty, from whom the overture of that first moved, did write but a few hours, that this should be done, which I turned into days. Secondly, because the hope I had of effect by that mean, was rather of attempting him at his arraingment, than of confession before his arraignment. But I submit it to his majesty's better judgment.

The person, by your first description, which was without name, I thought had been meant of Packer‡:

* Cicero, Epist. ad Atticum, Lib. XIII. Ep. 40. uses this word, εὐαγγέλια; which signifies both good news, and the reward given to him who brings good news. See Lib. II. Epist. 3.

† The earl of Somerset's.

‡ John, of whom there are several letters in Winwood's *Memorials*, Vol. II.

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but now perceive it is another, to me unknown, but, as it seemeth, very fit. I doubt not but he came with sufficient warrant to Mr. Lieutenant to have access. In this I have no more to do, but to expect to hear from his majesty how this worketh.

The letter from his majesty to myself and the serjeants I have received, such as I wished; and I will speak with the commissioners, that he may, by the lieutenant, understand his majesty's care of him, and the tokens herein of his majesty's compassion towards him.

I ever had a purpose to make use of that circumstance, that Overbury, the person murdered, was his majesty's prisoner in the Tower; which indeed is a strong pressure of his majesty's justice. For Overbury is the first prisoner murdered in the Tower, since the murder of the young princes by Richard the third, the tyrant.

I would not trouble his majesty with any points of preamble, nor of the evidence itself, more than that part nakedly, wherein was the tenderness, in which I am glad his majesty, by his postils, which he returned to me, approveth my judgment.

Now I am warranted, I will not stick to say openly, I am commanded, not to exasperate, nor to aggravate the matter in question of the impoisonment with any other collateral charge of disloyalty, or otherwise; wherein, besides his majesty's principal intention, there will be some use to save the former bruits of Spanish matters.

There is a direction given to Mr. Lieutenant by

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my lord Chancellor and myself, that as yesterday Mr. Whiting* the preacher, a discreet man, and one that was used to Helwisse, should preach before the lady†, and teach her, and move her generally to a clear confession. That after the same preacher should speak as much to him at his going away in private: and so proof to be made, whether this good mean, and the last night's thoughts, will produce any thing. And that this day the lieutenant should declare to her the time of her trial, and likewise of his trial, and persuade her, not only upon Christian duty, but as good for them both, that she deal clearly touching him, whereof no use can be made, nor need to be made, for evidence, but much use may be made for their comfort.

It is thought, at the day of her trial the lady will confess the indictment; which if she do, no evidence ought to be given. But because it shall not be a dumb show, and for his majesty's honour in so solemn an assembly, I purpose to make a declaration of the proceedings of this great work of justice, from the beginning to the end, wherein, nevertheless, I will be careful no ways to prevent or discover the evidence of the next day.

* John Whiting, D.D. rector of St. Martin Vintry, in London. and Vicar of East-Ham in Essex, prebendary of Ealdstreet in the church of St. Paul's, and chaplain to king James I. He attended Sir Gervase Helwisse, who had been lieutenant of the Tower, at his execution upon Tower-Hill, on Monday the 20th of November, 1615, for the murder of Sir Thomas Overbury.

† Frances, countess of Somerset.

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In this my lord chancellor and I have likewise used a point of providence: for I did forecast, that if in that narrative, by the connection of things, any thing should be spoken, that should shew him guilty, she might break forth into passionate protestations for his clearing; which, though it may be justly made light of, yet it is better avoided. Therefore my lord Chancellor and I have devised, that upon the entrance into that declaration she shall, in respect of her weakness, and not to add farther affliction, be withdrawn.

It is impossible, neither is it needful, for me, to express all the particulars of my care in this business. But I divide myself into all cogitations as far as I can foresee; being very glad to find, that his majesty doth not only accept well of my care and advices, but that he applieth his directions so fitly, as guideth me from time to time.

I have received the commissions signed.

I am not forgetful of the goods and estate of Somerset, as far as is seasonable to inquire at this time. My lord Coke taketh upon him to answer for the jewels, being the chief part of his moveable value: and this, I think, is done with his majesty's privity. But my lord Coke is a good man to answer for it.

God ever preserve and prosper you. I rest

Your true and devoted servant,

FR. BACON.

May 10, Friday at 7 of the clock in the morning [1616.]

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TO THE KING*.

MAY IT PLEASE YOUR MOST EXCELLENT MAJESTY,

I DO very much thank your majesty for your letter, and think myself much honoured by it. For though it contain some matter of dislike, in which respect it hath grieved me more than any event, which hath fallen out in my life; yet because I know reprehensions from the best masters to the best servants are necessary; and that no chastisement is pleasant for the time, but yet worketh good effects; and for that I find intermixed some passages of trust and grace; and find also in myself inwardly sincerity of intention, and conformity of will, howsoever I may have erred; I do not a little comfort myself, resting upon your majesty's accustomed favour; and most humbly desiring, that any one of my particular notions may be expounded by the constant and direct course, which, your majesty knoweth, I have ever held in your service.

And because it hath pleased your majesty, of your singular grace and favour, to write fully and freely unto me; it is duty and decorum in me not to write shortly to your majesty again, but with some length; not so much by way of defence or

* This letter appears, from the indorsement of the king's answer to it, to have been written at Gorhambury, July 25, 1617. That printed with this date in his Works, should be August 2, 1617, as I find by the original draught of it.

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answer, which yet, I know, your majesty would always graciously admit; as to shew, that I have, as I ought, weighed every word of your majesty's letter.

First, I do acknowledge, that this match of Sir John Villiers is "magnum in parvo" in both senses, that your majesty speaketh. But your majesty perceiveth well, that I took it to be in a farther degree, "majus in parvo," in respect of your service. But since your majesty biddeth me to confide upon your act of empire, I have done. For, as the Scripture saith, "to God all things are possible;" so certainly to wise kings much is possible. But for that second sense, that your majesty speaketh of, "magnum in parvo," in respect of the stir; albeit it being but a most lawful and ordinary thing, I most humbly pray your majesty to pardon me, if I signify to you, that we here take the loud and vocal, and as I may call it, streperous carriage to have been far more on the other side, which indeed is inconvenient, rather than the thing itself.

Now for the manner of my affection to my lord of Buckingham, for whom I would spend my life, and that which is to me more, the cares of my life; I must humbly confess, that it was in this a little parent-like, this being no other term, than his lordship hath heretofore vouchsafed to my counsels; but in truth, and it please your majesty, without any grain of disesteem for his lordship's discretion. For I know him to be naturally a wise man, of a sound and staid wit, as I ever said unto your majesty. And

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again, I know he hath the best tutor in Europe. But yet I was afraid, that the height of his fortune might make him too secure; and as the proverb is, a looker-on sometimes seeth more than a gamester.

For the particular part of a true friend, which your majesty witnesseth, that the earl hath lately performed towards me, in palliating some errors of mine; it is no new thing with me to be more and more bound to his lordship; and I am most humbly to thank, whatsoever it was, both your majesty and him; knowing well, that I may, and do commit many errors, and must depend upon your majesty's gracious countenance and favour for them, and shall have need of such a friend near your majesty. For I am not so ignorant of mine own case, but that I know I am come in with as strong an envy of some particulars, as with the love of the general.

For my opposition to this business, which, it seemeth, hath been informed your majesty, I think it was meant, if it be not a thing merely feigned, and without truth or ground, of one of these two things; for I will dissemble nothing with your majesty. It is true, that in those matters, which, by your majesty's commandment and reference, came before the table concerning Sir Edward Coke, I was sometimes sharp, it may be too much; but it was with end to have your majesty's will performed; or else, when methought he was more peremptory than became him, in respect of the honour of the table. It is true also, that I disliked the riot or violence, whereof we of your council gave your majesty advertisement by our

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joint letter: and I disliked it the more, because he justified it to be law; which was his old song. But in that act of council, which was made thereupon, I did not see but all my lords were as forward as myself, as a thing most necessary for preservation of your peace, which had been so carefully and firmly kept in your absence. And all this had a fair end, in a reconcilement made by Mr. Attorney*, whereby both husband and wife and child should have kept together. Which, if it had continued, I am persuaded the match had been in better and fairer forwardness, than now it is.

Now for the times of things, I beseech your majesty to understand that which my lord of Buckingham will witness with me, that I never had any word of letter from his lordship of the business, till I wrote my letter of advice; nor again, after my letter of advice, till five weeks after, which was now within this sennight. So that although I did in truth presume, that the earl would do nothing without your majesty's privity; yet I was in some doubt, by this his silence of his own mind, that he was not earnest in it, but only was content to embrace the officious offers and endeavours of others.

But, to conclude this point, after I had received, by a former letter of his lordship, knowledge of his mind, I think Sir Edward Coke himself, the last time he was before the lords, might particularly perceive an alteration in my carriage. And now that your majesty hath been pleased to open yourself

* Sir Henry Yelverton.

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to me, I shall be willing to further the match by any thing, that shall be desired of me, or that is in my power.

And whereas your majesty conceiveth some dregs of spleen in me by the word "Mr. Bacon;" truly it was but to express in thankfulness the comparative of my fortune unto your majesty, the author of the latter, to shew how little I needed to fear, while I had your favour. For, I thank God, I was never vindicative nor implacable.

As for my opinion of prejudice to your majesty's service, as I touched it before, I have done; I do humbly acquiesce in your majesty's satisfaction, and rely upon your majesty's judgment, who unto judgment have also power, so to mingle the elements, as may conserve the fabric.

For the interest, which I have in the mother, I do not doubt but it was increased by this, that I in judgment, as I then stood, affected that which she did in passion. But I think the chief obligation was, that I stood so firmly to her in the matter of her assurance, wherein I supposed I did your majesty service, and mentioned it in a memorial of council-business, as half craving thanks for it. And sure I am now, that, and the like, hath made Sir Edward Coke a convert, as I did write to your majesty in my last.

For the collation of the two spirits, I shall easily subscribe to your majesty's answer; for Solomon were no true man, if in matter of malice the woman should not be the superior.

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To conclude, I have gone through, with the plainness of truth, the parts of your majesty's letter: very humbly craving pardon for troubling your majesty so long; and most humbly praying your majesty to continue me in your grace and favour, which is the fruit of my life upon the root of a good conscience. And although time in this business have cast me upon a particular, which, I confess, may have probable shew of passion or interest; yet God is my witness, that the thing, that most moved me, was an anxious and solicitous care of your majesty's state and service, out of consideration of the time past and present.

God ever preserve and bless your majesty, and send you a joyful return after your prosperous journey.

ADVICE TO THE KING, FOR REVIVING THE COMMISSION OF SUITS.

THAT, which for the present I would have spoken with his majesty about, as a matter wherein time may be precious, being upon the tenderest point of all others. For though the particular occasion may be despised, and yet nothing ought to be despised in this kind, yet the counsel thereupon I conceive to be most sound and necessary, to avoid future perils.

There is an examination taken within these few days, by Mr. Attorney, concerning one Baynton, or

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Baynham, for his name is not yet certain, attested by two witnesses, that the said Baynton, without any apparent shew of being overcome with drink, otherwise than so as might make him less wary to keep secrets, said, that he had been lately with the king, to petition him for reward of service; which was denied him. Whereupon it was twice in his mind to have killed his majesty. The man is not yet apprehended, and said by some to be mad, or half mad; which, in my opinion, is not less dangerous; for such men commonly do most mischief; and the manner of his speaking imported no distraction. But the counsel I would out of my care ground hereupon, is, that his majesty would revive the commission for suits, which hath been now for these three years, or more, laid down. For it may prevent any the like wicked cogitations, which the devil may put into the mind of a roarer or swaggerer, upon a denial: and besides, it will free his majesty from much importunity, and save his coffers also. For I am sure when I was a commissioner, in three whole years space there passed scarce ten suits that were allowed. And I doubt now, upon his majesty's coming home from this journey, he will be much troubled with petitions and suits; which maketh me think this remedy more seasonable. It is not meant, that suits generally should pass that way, but only such suits as his majesty would be rid on.

Indorsed,

September 21, 1617.

To revive the commission of suits. For the King.

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TO THE EARL OF BUCKINGHAM.

MY VERY GOOD LORD,

IT may please your lordship to let his majesty understand, that I have spoken with all the judges, signifying to them his majesty's pleasure touching the commendams. They all "una voce" did re-affirm, that his majesty's powers, neither the power of the crown, nor the practised power by the archbishop, as well in the commendam "ad recipiendum," as the commendam "ad retinendum," are intended to be touched; but that the judgment is built upon the particular defects and informalities of this commendam now before them. They received with much comfort, that his majesty took so well at their hands the former stay, and were very well content and desirous, that when judgment is given, there be a faithful report made of the reason thereof.

The accounts of the summer-circuits, as well as that of the lent-circuit, shall be ready against his majesty's coming. They will also be ready with some account of their labours concerning Sir Edward Coke's *Reports*: wherein I told them his majesty's meaning was, not to disgrace the person, but to rectify the work, having in his royal contemplation rather posterity than the present.

The two points touching the peace of the middle shires, I have put to a consult with some selected judges.

The cause of the Egertons I have put off, and

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shall presently enter into the treaty of accord, according to his majesty's commandment, which is well tasted abroad in respect of his compassion towards those ancient families.

God ever preserve and prosper your lordship, according to the faithful and fervent wishes of

Your Lordship's true friend and devoted servant,

York-house, October 11, 1617. FR. BACON.

TO THE LORD KEEPER*.

MY HONOURABLE LORD,

I HAVE delivered the judges advice, touching the middle shires, unto his majesty, who liketh it very well. As for the point of law, his majesty will consider of it at more leisure, and then send you his opinion thereof. And so I rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Hinchinbroke, the 22d of Oct. 1617.

TO THE LORD KEEPER†.

MY HONOURABLE LORD,

UNDERSTANDING, that Thomas Hukeley, a merchant of London, of whom I have heard a good report, intendeth to bring before your lordship in chancery a cause depending between him, in right of his wife, daughter of William Austen, and one John Horsmendon, who married another daughter of the said

* Harl. MSS. Vol. 7006. † Ibid.

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Austen; I have thought fit to desire your lordship to give the said Thomas Hukeley a favourable hearing when his cause shall come before you; and so far to respect him for my sake, as your lordship shall see him grounded upon equity and reason; which is no more than, I assure myself, your lordship will grant readily, as it is desired by

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Indorsed, November 17, 1617.

TO THE LORD CHANCELLOR*.

MY HONOURABLE LORD,

I HAVE heretofore recommended unto your lordship the determination of the cause between Sir Rowland Egerton and Edward Egerton†, who, I understand, did both agree, being before your lordship, upon the values of the whole lands. And as your lordship hath already made so good an entrance into the business, I doubt not but you will be as noble in furthering the full agreement between the parties: whereunto, I am informed, Sir Rowland Egerton is

* Sir Francis Bacon had that title given him January 4.

† This was one of the causes mentioned in the charge of the House of Commons against the lord Bacon; in his answer to which, he acknowledged, that some days after perfecting his award, which was done with the advice and consent of the lord chief justice Hobart, and publishing it to the parties, he received 300*l.* of Mr. Edward Egerton, by whom, soon after his coming to the seal, he had likewise been presented with 400*l.* in a purse.

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very forward, offering on his part that, which to me seemeth very reasonable, either to divide the lands, and his adverse party to choose; or the other to divide, and he to choose. Whereupon my desire to your lordship is, that you would accordingly make a final end between them, in making a division, and setting forth the lands, according to the values agreed upon by the parties themselves. Wherein, besides the charitable work your lordship shall do in making an end of a controversy between those, whom name and blood should tie together, and keep in unity, I will acknowledge your favour as unto myself, and will ever rest

Your Lordship's faithful servant,

Theobald's, G. BUCKINGHAM.
January 9, 1617.

TO SIR HENRY YELVERTON, ATTORNEY-GENERAL.

MR. ATTORNEY,

WHEREAS there dependeth before me in chancery a great cause of tithes concerning the benefices of London, though in a particular, yet, by consequence leading to a general; his majesty, out of a great religious care of the state, both of Church and city, is graciously pleased, that before any judicial sentence be pronounced in chancery, there be a commission directed unto me, the lord chancellor, lord treasurer, the lord privy-seal, and the lord chamberlain; and likewise to the lord archbishop, the lord bishop of

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Winchester* and the bishop of Ely †, and also to the master of the rolls ‡, the two lord chief justices §, justice Dodderidge, and justice Hutton, who formerly assisted me in the cause, to treat of some concord in a reasonable moderation between the ministers and the mayor and the commonalty of London in behalf of the citizens; and to make some pact and transaction between them by consent, if it may be; or otherwise to hear and certify their opinions touching the cause, that thereupon his majesty may take such farther order, by directing of a proceeding in chancery, or by some other course, as to his wisdom shall seem fit.

You will have care to draw the commission with some preface of honour to his majesty, and likewise to insert in the beginning of the commission, that it was "de advisamento cancellarii" (as it was indeed) lest it should seem to be taken from the court. So I commit you to God's etc.

Jan. 19, 1617. FR. BACON, *Canc.*

TO THE LORD CHANCELLOR ||.

MY HONOURABLE LORD,

I THANK your lordship for your favour to Sir George

* Dr. James Montagu.

† Dr. Lancelot Andrews.

‡ Sir Julius Cæsar.

§ Sir Henry Montagu of the King's Bench, and Sir Henry Hobart of the Common Pleas.

|| Harl. MSS. Vol. 7006.

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Tipping, in giving liberty unto him to make his appearance before you after the holy-days, at my request; who, as I understand by some friends of mine, who moved me to recommend him to your lordship's favour, is willing to conform himself in performance of the decree made in the chancery by your lordship's predecessor, but that he is persuaded, that presently, upon the performance thereof, his son will make away the land that shall be conveyed unto him: which being come to Sir George from his ancestors, he desireth to preserve to his posterity. I desire your lordship's farther favour therefore unto him, that you will find out some course, how he may be exempted from that fear of the sale of his lands, whereof he is ready to acknowledge a fine to his son, and to his heirs by Anne Pigot; and, they failing, to his son's heirs males, and, for want thereof, to any of his son's or brethren's heirs males, and so to the heirs general of his father and himself, by lineal descent, and the remainder to the crown. This offer, which seemeth very reasonable, and for his majesty's advantage, I desire your lordship to take into your consideration, and to shew him what favour you may for my sake; which I will readily acknowledge, and ever rest

Your Lordship's faithful servant,

G. Buckingham.

Newmarket, Jan. 23, 1617.

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TO THE LORD CHANCELLOR*.

MY HONOURABLE LORD,

UNDERSTANDING, that there is a suit depending before your lordship, between Sir Rowland Cotton †, plaintiff, and Sir John Gawen, defendant, which is shortly to come to a hearing; and having been likewise informed, that Sir Rowland Cotton hath undertaken it in the behalf of certain poor people; which charitable endeavour of his, I assure myself, will find so good acceptation with your lordship, that there shall be no other use of recommendation: yet, at the earnest request of some friends of mine, I have thought fit to write to your lordship in his behalf, desiring you to shew him what favour you lawfully may, and the cause may bear, in the speedy dispatch of his business; which I shall be ever ready to acknowledge, and rest

Your Lordship's most devoted to serve you,

Whitehall, April 20, 1618. G. BUCKINGHAM.

* Harl. MSS. Vol. 7006.

† A gentleman eminent for his learning, especially in the Hebrew language, in which he had been instructed by the famous Hugh Broughton, who died in 1612. He was son of Mr. William Cotton, citizen and draper of London, and had an estate at Bellaport in Shropshire, where he resided, till he came to live at London at the request of Sir Allen Cotton, his father's younger brother, who was Lord Mayor of that city in 1625. Sir Rowland was the first patron of the learned Dr. Lightfoot, and encouraged him in the prosecution of his studies of the Hebrew language and antiquities.

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TO THE LORD CHANCELLOR *.

MY HONOURABLE GOOD LORD,

WHEREAS in Mr. Hansbye's cause †, which formerly, by my means, both his majesty and myself recommended to your lordship's favour, your lordship thought good, upon a hearing thereof, to decree some part for the young gentleman, and to refer to some masters of the chancery, for your farther satisfaction, the examination of witnesses to this point; which seemed to your lordship to be the main thing your lordship doubted of, whether or no the leases, conveyed by old Hansbye to young Hansbye by deed, were to be liable to the legacies, which he gave by will; and that now I am credibly informed, that it will appear upon their report, and by the depositions of witnesses, without all exception, that the said leases are no way liable to those legacies; these shall be earnestly to intreat your lordship, that upon consideration of the report of the masters, and depositions of the witnesses, you will, for my sake, shew

* Harl. MSS. Vol. 7006.

† This seems to be one of the causes, on account of which lord Bacon was afterwards accused by the House of Commons; in answer to whose charge he admits, that in the cause of Sir Ralph Hansbye there being two decrees, one for the inheritance, and the other for goods and chattels; some time after the first decree, and before the second, there was 500*l.* delivered to him by Mr. Tobie Matthew; nor could his lordship deny, that this was upon the matter "pendente lite."

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as much favour and expedition to young Mr. Hansbye in this cause, as the justness thereof will permit. And I shall receive it at your lordship's hands as a particular favour.

So I take my leave of your lordship, and rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Greenwich, June 12, 1618.

TO THE LORD CHANCELLOR*.

MY HONOURABLE LORD,

UNDERSTANDING, that the cause depending in the chancery between the lady Vernon and the officers of his majesty's household is now ready for a decree; though I doubt not, but, as his majesty hath been satisfied of the equity of the cause on his officers behalf, who have undergone the business, by his majesty's command, your lordship will also find their cause worthy of your favour: yet I have thought fit once again to recommend it to your lordship, desiring you to give them a speedy end of it, that both his majesty may be freed from farther importunity, and they from the charge and trouble of following it: which I will be ever ready to acknowledge as a favour done unto myself, and always rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Greenwich, June 15, 1618.

* Harl. MSS. Vol. 7006.

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TO THE LORD CHANCELLOR*.

MY HONOURABLE LORD,

I WROTE unto your lordship lately in the behalf of Sir Rowland Cotton, that then had a suit in dependence before your lordship and the rest of my lords in the Star-Chamber. The cause, I understand, hath gone contrary to his expectation; yet he acknowledges himself much bound to your lordship for the noble and patient hearing he did then receive; and he rests satisfied, and I much beholden to your lordship, for any favour it pleased your lordship to afford him for my cause. It now rests only in your lordship's power for the assessing of costs; which, because, I am certainly informed, Sir Rowland Cotton had just cause of complaint, I hope your lordship will not give any against him. And I do the rather move your lordship to respect him in it, because it concerns him in his reputation, which I know he tenders, and not the money which might be imposed upon him; which can be but a trifle. Thus presuming of your lordship's favour herein, which I shall be ready ever to account to your lordship for, I rest

Your Lordship's most devoted to serve you,

G. BUCKINGHAM.

June 19, 1618.

* Harl. MSS. Vol. 7006.

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TO THE LORD CHANCELLOR.*

MY HONOURABLE LORD,

I HAVE been desired by some friends of mine, in the behalf of Sir Francis Englefyld, to recommend his cause so far unto your lordship, that a peremptory day being given by your lordship's order for the perfecting of his account, and for the assignment of the trust, your lordship would take such course therein, that the gentleman's estate may be redeemed from farther trouble, and secured from all danger, by engaging those, to whom the trust is now transferred by your lordship's order, to the performance of that, whereunto he was tied. And so not doubting but your lordship will do him what lawful favour you may herein, I rest

Your Lordship's faithful friend and servant,

G. BUCKINGHAM.

Indorsed,

Received October 14, 1618.

TO THE KING, CONCERNING THE FORM AND MANNER OF PROCEEDING AGAINST SIR WALTER RALEGH†.

MAY IT PLEASE YOUR MOST EXCELLENT MAJESTY,

ACCORDING to your commandment given unto us, we

* Harl. MSS. Vol. 7006.

† He was beheaded October 29, 1618, the day of the inauguration of the lord mayor of London.

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have, upon divers meetings and conferences, considered what form and manner of proceeding against Sir Walter Ralegh might best stand with your majesty's justice and honour, if you shall be pleased, that the law shall pass upon him.

And, first, we are of opinion, that Sir Walter Ralegh being attainted of high-treason, which is the highest and last work of law, he cannot be drawn in question judicially for any crime or offence since committed. And therefore we humbly present two forms of proceeding to your majesty: the one, that together with the warrant to the lieutenant of the Tower, if your majesty shall so please, for his execution, to publish a narrative in print of his late crimes and offences: which, albeit your majesty is not bound to give an account of your actions in these cases to any but only to God alone, we humbly offer to your majesty's consideration, as well in respect of the great effluxion of time since his attainder, and of his employment by your majesty's commission, as for that his late crimes and offences are not yet publickly known. The other form, whereunto, if your majesty so please, we rather incline, is, that where your majesty is so renowned for your justice, it may have such a proceeding, as is nearest to legal proceeding; which is, that he be called before the whole body of your council of state, and your principal judges, in your council-chamber; and that some of the nobility and gentlemen of quality be admitted to be present to hear the whole proceeding, as in like cases hath been used. And after the

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assembly of all these, that some of your majesty's counsellors of state, that are best acquainted with the case, should openly declare, that this form of proceeding against Sir Walter is holden, for that he is civilly dead. After this your majesty's council learned to charge his acts of hostility, depredation, abuse as well of your majesty's commission, as of your subjects under his charge, impostures, attempt of escape, and other his misdemeanors. But for that, which concerns the French, wherein he was rather passive than active, and without which the charge is complete, we humbly refer to your majesty's consideration, how far that shall be touched. After which charge so given, the examinations read, and Sir Walter heard, and some to be confronted against him, if need be, then he is to be withdrawn and sent back; for that no sentence is, or can be, given against him. And after he is gone, then the lords of the council and judges to give their advice to your majesty, whether in respect of these subsequent offences upon the whole matter, your majesty, if you so please, may not with justice and honour give warrant for his execution upon his attainder. And of this whole proceeding we are of opinion, that a solemn act of council should be made, with a memorial of the whole presence. But before this be done, that your majesty may be pleased to signify your gracious direction herein to your council of state; and that your council learned, before the calling of Sir Walter, should deliver the heads of the matter, together with the principal examinations

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touching the same, wherewith Sir Walter is to be charged, unto them, that they may be perfectly informed of the true state of the case, and give their advice accordingly. All which nevertheless we, in all humbleness, present and submit to your princely wisdom and judgment, and shall follow whatsoever it shall please your majesty to direct us herein, with all dutiful readiness.

Your Majesty's most humble
and faithful servants, etc.

York-house, this 18th of October, 1618.

TO THE LORD CHANCELLOR*.

MY HONOURABLE LORD,

WHEREAS there is a cause depending in the court of chancery between one Mr. Francis Foliambe and Francis Hornsby, the which already hath received a decree, and is now to have another hearing before yourself; I have thought fit to desire you to shew so much favour therein, seeing it concerns the gentleman's whole estate, as to make a full arbitration and final end, either by taking the pains in ending it yourself, or preferring it to some other, whom your lordship shall think fit: which I shall acknow-

* Harl. MSS. Vol. 7006.

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ledge as a courtesy from your lordship; and ever rest

Your lordship's faithful friend and servant,

G. BUCKINGHAM.

Hinchinbroke, the 22d of October, 1618.

TO THE MARQUIS OF BUCKINGHAM.

MY VERY GOOD LORD,

WE have put the Declaration * touching Ralegh to the press with his majesty's additions, which were very material, and fit to proceed from his majesty.

For the prisoners, we have taken an account, given a charge, and put some particulars in examination for punishment and example.

For the pursuivants, we staid a good while for Sir Edward Coke's health; but he being not yet come abroad, we have entered into it; and we find faults, and mean to select cases for example: but in this swarm of priests and recusants we are careful not to discourage in general. But the punishment of some, that are notoriously corrupt, concerned not the good, and will keep in awe those that are but indifferent.

The balance of the king's estate is in hand, whereof I have great care, but no great help.

* *Declaration of the Demeanor and Carriage of Sir Walter Ralegh, Knight, as well in his Voyage, as in and since his return, etc.* printed at London, 1618, in quarto.

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The sub-committees for the several branches of treasure are well chosen and charged.

This matter of the king's estate for means is like a quarry, which digs and works hard; but then, when I consider it buildeth, I think no pains too much; and after term it shall be my chief care.

For the mint, by my next I will give account; for our day is Wednesday.

God ever preserve and prosper you.

Your Lordship's

Fr. Verulam, Canc.

November 22, 1618.

Indorsed,

Of council-business.

TO THE LORD CHANCELLOR *.

MY HONOURABLE LORD,

I HAVING understood by Dr. Steward, that your lordship hath made a decree against him in the chancery, which he thinks very hard for him to perform; although I know it is unusual to your lordship to make any alterations, when things are so far past: yet in regard I owe him a good turn, which I know not how to perform but this way, I desire your lordship, if there be any place left for mitigation, your lordship would shew him what favour

* Harl. MSS. Vol. 7006.

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you may, for my sake, in his desires, which I shall be ready to acknowledge as a great courtesy done unto myself; and will ever rest

Your Lordship's faithful friend and servant,

G. Buckingham.

Newmarket, the 2d Decemb. 1618.

NOTES OF A SPEECH OF THE LORD CHANCELLOR IN THE STAR-CHAMBER, IN THE CAUSE OF SIR HENRY YELVERTON, ATTORNEY-GENERAL *.

Sorry for the person, being a gentleman that I lived with in Gray's-Inn; served with him when I was attorney; joined with him in many services, and one, that ever gave me more attributes in public, than I deserved; and, besides, a man of very good parts, which with me is friendship at first sight; much more, joined with so ancient an acquaintance.

But, as a judge, I hold the offence very great, and that without pressing measure; upon which I will only make a few observations, and so leave it.

1. First I observe the danger and consequence

* He was prosecuted in the Star-Chamber, for having passed certain clauses in a charter, lately granted to the city of London, not agreeable to his majesty's warrant, and derogatory to his honour. But the chief reason of the severity against him was thought to be the marquis of Buckingham's resentment against him, for having opposed, according to the duty of his office, some oppressive, if not illegal, patents, which the projectors of those times were busy in preparing.

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of the offence: for if it be suffered, that the learned council shall practise the art of multiplication upon their warrants, the crown will be destroyed in small time. The great seal, the privy seal, signet, are solemn things; but they follow the king's hand. It is the bill drawn by the learned council and the docquet, that leads the king's hand.

2. Next I note the nature of the defence. As first, that it was error in judgment: for this surely, if the offence were small though clear, or great, but doubtful, I should hardly sentence it. For it is hard to draw a straight line by steadiness of hand; but it could not be the swerving of the hand. And herein I note the wisdom of the law of England, which termeth the highest contempts and excesses of authority, "misprisions;" which, if you take the sound and derivation of the words, is but "mistaken:" but if you take the use and acceptation of the word, it is high and hainous contempts and usurpations of authority; whereof the reason I take to be, and the name excellently imposed; for that main mistaking, it is ever joined with contempt; for he, that reveres, will not easily mistake; but he, that slights, and thinks more of the greatness of his place than of the duty of his place, will soon commit misprisions.

Indorsed,

Star-Chamber, October 24, 1620. *Notes upon Mr. Attorney's cause.*

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TO THE MARQUIS OF BUCKINGHAM.

MY VERY GOOD LORD,

It may be, your lordship will expect to hear from me what passed yesterday in the Star-Chamber, touching Yelverton's cause, though we desired secretary Calvert to acquaint his majesty therewith.

To make short, at the motion of the attorney, in person at the bar, and at the motion of my lord Steward* in court, the day of proceeding is deferred till the king's pleasure is known. This was against my opinion then declared plain enough; but put to votes, and ruled by the major part, though some concurred with me.

I do not like of this course, in respect that it puts the king in a strait; for either the note of severity must rest upon his majesty, if he go on; or the thanks of clemency is in some part taken away, if his majesty go not on.

I have "cor unum et via una;" and therefore did my part as a judge and the king's chancellor. What is farther to be done, I will advise the king faithfully, when I see his majesty and your lordship. But before I give advice, I must ask a question first.

God ever preserve and prosper you.

Your Lordship's most obliged friend
and faithful servant,
FR. VERULAM, *Canc.*

October 28, 1620.

* The duke of Lenox.

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LORD CHANCELLOR BACON TO THE MARQUIS OF BUCKINGHAM.

MY VERY GOOD LORD,

YESTERNIGHT we made an end of Sir Henry Yelverton's cause. I have almost killed myself with sitting almost eight hours. But I was resolved to sit it through. He is sentenced to imprisonment in the Tower during the king's pleasure. The fine of 4000*l.* and discharge of his place, by way of opinion of the court, referring it to the king's pleasure. How I stirred the court, I leave it to others to speak; but things passed to his majesty's great honour. I would not for any thing but he had made his defence; for many chief points of the charge were deeper printed by the defence. But yet I like it not in him; the less because he retained Holt, who is ever retained but to play the fool. God ever prosper you.

Your Lordship's most obliged friend,
and faithful servant,

11, Nov. 1620. FR. VERULAM, *Canc.*

TO THE KING.

IT MAY PLEASE YOUR EXCELLENT MAJESTY,

IN performance of your royal pleasure, signified by Sir John Suckling*, we have at several times con-

* He was afterwards comptroller of the household to king Charles I. and father of the poet of the same name.

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sidered of the petition of Mr. Christopher Villiers*, and have heard, as well the registers and ministers of the Prerogative-Court of Canterbury, and their council, as also the council of the lord archbishop of Canterbury. And setting aside such other points, as are desired by the petition, we do think, that your majesty may by law, and without inconvenience, appoint an officer, that shall have the ingrossing of the transcripts of all wills to be sealed with the seal of either of the Prerogative-Courts, which shall be proved "in communi forma;" and likewise of all inventories, to be exhibited in the same courts.

We see it necessary, that all wills, which are not judicially controverted, be ingrossed before the probate. Yet, as the law now stands, no officer of those courts can lawfully take any fee or reward for ingrossing the said wills and inventories, the statute of the 21st of king Henry the VIIIth restraining them. Wherefore we hold it much more convenient, that it should be done by a lawful officer, to be appointed by your majesty, than in a cause not warrantable by law. Yet our humble opinion and advice is, that good consideration be had in passing this book, as well touching a moderate proportion of fees to be allowed for the pains and travel of the officer, as for the expedition of the suitor, in such sort, that the

* Youngest brother to the marquis of Buckingham. He was created, April 23, 1623, baron of Daventry and earl of Anglesey. He died September 24, 1624.

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subject may find himself in better case than he is now, and not in worse.

But however we conceive this may be convenient in the two courts of prerogative, where there is much business, yet in the ordinary course of the bishops diocesans, we hold the same will be inconvenient, in regard of the small employment.

Your Majesty's most faithful
and obedient servants,
FR. VERULAM, *Canc.*
ROBERT NAUNTON,
HENRY MONTAGU*.

November 15, 1602.

TO THE KING.

IT MAY PLEASE YOUR MOST EXCELLENT MAJESTY,

ACCORDING to your commandment, we have heard once more the proctors of the Prerogative-Court, what they could say; and find no reason to alter, in any part, our former certificate. Thus much withal we think fit to note to your majesty, that our former certificate, which we now ratify, is principally grounded upon a point in law, upon the statute of 21 Henry VIII. wherein we the chancellor and treasurer, for our own opinions, do conceive the law is clear; and your solicitor-general† concurs.

* Lord chief justice of the King's Bench, who, on the 3d of December following, was advanced to the post of lord high treasurer

† Sir Thomas Coventry, who was made attorney-general, January 14, 1620-1.

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Now whether your majesty will be pleased to rest in our opinions, and so to pass the patents; or give us leave to assist ourselves with the opinion of some principal judges now in town, whereby the law may be the better resolved, to avoid farther question hereafter; we leave it to your majesty's royal pleasure. This we represent the rather, because we discern such a confidence in the proctors, and those upon whom they depend, as, it is not unlike, they will bring it to a legal question.

And so we humbly kiss your majesty's hands, praying for your preservation.

Your Majesty's most humble
and obedient servants,

Fr. Verulam, *Canc.*
Henry Montagu,
Robert Naunton.

York-house, December 12, 1620.

NOTES UPON MICHAEL DE LA POLE'S CASE*.

10 Rich. 2. The offences were of three natures:

1. Deceits to the king.

2. Misgovernance in point of estate, whereby the ordinances made by ten commissioners for reformation of the state were frustrated, and the city of Ghent, in foreign parts, lost.

* This paper was probably drawn up on occasion of the proceedings and judgment passed upon the lord viscount St. Alban by the house of lords, May 3, 1621.

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3. And his setting the seal to pardons for murders, and other enormous crimes.

The judgment was imprisonment, fine, and ransom, and restitution to the king, but no disablement, nor making him uncapable, no degrading in honour mentioned in the judgment: but contrariwise, in the clause, that restitution should be made and levied out of his lands and goods, it is expressly said, that because his honour of earl was not taken from him, therefore his 20*l. per annum* creation money should not be meddled with.

OBSERVATIONS UPON THORPE'S CASE.

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24 Edw. 3. His offence was taking of money from five several persons, that were felons, for staying their process of exigent; for that it made him a kind of accessary of felony, and touched upon matter capital.

The judgment was the judgment of felony: but the proceeding had many things strong and new; first, the proceeding was by commission of *oyer* and *terminer*, and by jury; and not by parliament.

The judgment is recited to be given in the king's high and sovereign power.

It is recited likewise, that the king, when he made him chief justice, and increased his wages, did "ore tenus" say to him, in the presence of his council, that now if he bribed he would hang him: unto which penance, for so the record called it, he

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submitted himself. So it was a judgment by a contract.

His oath likewise, which was devised some few years before, which is very strict in words, that he shall take no reward, neither before nor after, is chiefly insisted upon. And that, which is more to be observed, there is a precise proviso, that the judgment and proceeding shall not be drawn into example against any, and specially not against any who have not taken the like oath: which the lord chancellor, lord treasurer, master of the wards, etc. take not, but only the judges of both benches, and baron of the exchequer.

The king pardoned him presently after, doubting, as it seems, that the judgment was erroneous, both in matter and form of proceeding; brought it before the lords of parliament, who affirmed the judgment, and gave authority to the king in the like cases, for the time to come, to call to him what lords it pleased him, and to adjudge them.

NOTES UPON SIR JOHN LEE'S CASE, STEWARD OF THE KING'S HOUSEHOLD.

44 Edw. 3. His offences were, great oppressions in usurpation of authority, in attacking and imprisoning in the Tower, and other prisons, numbers of the king's subjects, for causes no ways appertaining to his jurisdiction; and for discharging an appellant of felony without warrant, and for deceit of the king, and extortions.

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His judgment was only imprisonment in the Tower, until he had made a fine and ransom at the king's will; and no more.

NOTES UPON LORD LATIMER'S CASE.

50 Edw. 3. His offences were very high and hainous, drawing upon high treason: as the extortious taking of victuals in Bretagne, to a great value, without paying any thing; and for ransoming divers parishes there to the sum of 83,000*l.* contrary to the articles of truce proclaimed by the king; for suffering his deputies and lieutenants in Bretagne to exact, upon the towns and countries there, divers sums of money, to the sum of 150,000 crowns; for sharing with Richard Lyons in his deceit of the king; for enlarging, by his own authority, divers felons; and divers other exorbitant offences.

Notwithstanding all this, his judgment was only to be committed to the Marshalsea, and to make fine and ransom at the king's will.

But after, at the suit of the commons, in regard of those horrible and treasonable offences, he was displaced from his office, and disabled to be of the king's council; but his honours not touched, and he was presently bailed by some of the lords, and suffered to go at large.

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JOHN LORD NEVILLE'S CASE.

50 Edw. 3. His offences were, the not supplying the full number of the soldiers in Bretagne, according to the allowance of the king's pay. And the second was for buying certain debts, due from the king, to his own lucre, and giving the parties small recompence, and specially in a case of the lady Ravensholme.

And it was prayed by the commons, that he might be put out of office about the king: but there was no judgment given upon that prayer, but only of restitution to the lady, and a general clause of being punished according to his demerits.

MY LORD,

If your lordship have done with that "Mascardus de Interpretatione Statutorum*," I shall be glad, that you would give order that I might use it. And for that of 12 Hen. 7. touching the grand council in the manuscript, I have since seen a privy seal of the time of Henry 7. (without a year) directed to borrow for the king; and in it there is a recital of a grand council, which thought, that such a sum was fit to be levied; whereof the Lords gave 40,000*l.* and the rest was to be gotten by privy seal upon

* *Alderani Mascardi communes conclusiones utriusque juris ad generalem statutorum interpretationem accommodata:* printed at Ferrara, 1608.

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loan. Doubtless, my lord, this interprets that of the manuscript story.

On the back of this letter are the following notes by the lord viscount St. Alban.

"The case of the judgment in parliament, upon a writ of error put by Just. Hu. *.

The case of no judgment entered into the court of augmentations, or survey of first fruits; which are dissolved, where there may be an entry after, out of a paper-book.

Mem. All the acts of my proceeding were after the royal assent to the subsidy."

QUESTIONS DEMANDED OF THE CHIEF JUSTICE OF THE KING'S BENCH BY HIS MAJESTY'S COMMANDMENT.

1. In the case of the isle of Ely, whether his lordship thinks that resolution there spoken of to be law; That a general taxation upon a town, to pay so much towards the repair of the sea-banks, is not warranted to be done by the commissioners of sewers; but that the same must be upon every particular person, according to the quantity of his land, and by number of acres and perches; and according to the portion of the profit, which every one hath there.

2. In Darcy's case, whether his lordship's judgment be as he reporteth it to be resolved; that the

* Hutton.

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dispensation or licence of queen Elizabeth to Darcy to have the sole importation of cards, notwithstanding the statute, 3 E. 4, is against law.

3. In Godfrey's case, what he means by this passage, Some courts cannot imprison, fine, or amerce, as ecclesiastical courts before the ordinary archdeacon, etc. or other commissioners, and such like, which proceed according to the canon or civil law.

4. In Dr. Bonham's case, what he means by this passage, That in many cases the common law shall controul acts of parliament, and sometimes shall judge them to be merely void: For where an act of parliament is against common right and reason, the law shall controul it, and adjudge it void.

5. In Bagges's case, to explain himself where he saith, That to the court of King's Bench belongs authority, not only to correct errors in judicial proceedings, but other errors and misdemeanors extrajudicial, tending to the breach of peace, oppression of subjects, or to the raising of faction, controversies, debate, or to any manner of misgovernment. So no wrong or injury can be done, but, that this shall be reformed or punished by due course of law.

I received these questions the 17th of this instant October, being Thursday; and this 21st day of the same month I made these answers following:

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THE HUMBLE AND DIRECT ANSWER TO THE QUESTIONS UPON THE CASE OF THE ISLE OF ELY.

THE statute of the 23 H. VIII. cap. 5, prescribeth the commission of sewers to be according to the manner, form, tenure, and effect hereafter ensuing, namely, to inquire by the oath of men, etc. who hath any lands or tenements, or common of pasture, or hath, or may have, any loss, etc. and all these persons to tax, distrain, and punish, etc. after the quantity of lands, tenements, and rents, by the number of acres and perches, after the rate of every person's portion or profit, or after the quantity of common of pasture, or common of fishing, or other commodity there, by such ways and means, and in such manner and form, as to you, or six of you, shall seem most convenient.

The commissioners of sewers within the isle of Ely did tax Fendrayton, Samsey, and other towns generally, namely, one intire sum upon the town of Fendrayton, another upon Samsey, etc. The lords of the council wrote to myself, the chief justice of the Common Pleas, and unto justice Daniel and justice Foster, to certify our opinions, whether such a general taxation were good in law. Another question was also referred to us, whereof no question is now made: and as to this question we certified, and so I have reported as followeth, That the taxation ought to have these qualities, 1. It ought to be

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according to the quantity of lands, tenements, and rents, and by number of acres and perches. 2. According to the rate of every person's portion, tenure, or profit, or of the quantity of common of pasture, fishing, or other commodity, wherein we erred not, for they be the very words and text of the law, and of the commission. Therefore we concluded, that the said taxation of an intire sum in gross upon a town is not warranted by their commission, etc. And being demanded by your majesty's commandment, whether I do think the said resolution concerning the said general taxation to be law, I could have wished, that I could have heard council learned again on both sides, as I and the other judges did, when we resolved this point; and now being seven years past since the said resolution, and by all this time I never hearing any objection against it, I have considered of this case, as seriously as I could within this short time, and without conference with any; and mine humble answer is, That for any thing that I can conceive to the contrary, I remain still of my former opinion, and have, as I take it, the express text and meaning of the law to warrant mine opinion. Seeing that one town is of greater value, and subject to more danger, than another, the general taxation of a town cannot, as I take it, be just, unless the particular lands, etc. and loss be known, for the total must rise upon the particulars; and if the particulars be known, then may the taxations be in particular, as it ought, as I take it, to be according to the express words of the act and commission.

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The makers of the act did thereby provide, That every man should be equally charged, according to his benefit or loss; but if the general taxations should be good, then might the intire tax set upon the town be levied of any one man or some few men of that town; which should be unequal, and against the express words of the act and commission; and if it should be in the power of their officer to levy the whole taxation upon whom he will, it would be a means of much corruption and inconvenience; all which the makers of the act did wisely foresee by the express words of the act.

If the taxation be in particular, according to the number of acres, etc. which may easily be known, it may, as I take it, be easily done.

It was not only the resolution of the said three judges, but it hath been ruled and adjudged by divers other judges in other rates accordingly.

All which notwithstanding I most humbly submit myself herein to your majesty's princely censure and judgment.

FDW. COKE.

THE HUMBLE AND DIRECT ANSWER TO THE QUESTIONS UPON D'ARCY'S CASE.

THE statute of 3 of E. IV. cap. 4. at the humble petition of the card-makers, etc. within England, prohibiteth, amongst other things, the bringing into the realm of all foreign playing cards upon certain

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penalties. Queen Elizabeth, in the fortieth year of her reign, granted to Sir Ed. D'Arcy, his executors, deputies, and assigns, for twenty-one years, to have the sole making of playing cards within the realm, and the sole importation of foreign playing cards; and that no other should either make any such cards, within the realm, or import any foreign cards, but only the said Sir Ed. D'Arcy, his executors, deputies, and assigns, notwithstanding the said act.

The point concerning the sole making of cards within the realm is not questioned: the only question now is concerning the sole importation.

It was resolved, that the dispensation or licence to have the sole importation or merchandizing of cards, without any limitation or stint, is utterly against the law.

And your majesty's commandment having been signified to me, to know, whether my judgment be, as I report it to be resolved, in most humble manner I offer this answer to your majesty; That I am of opinion, that without all question the late queen by her prerogative might, as your majesty may, grant licence to any man to import any quantity of the said manufacture whatsoever, with a "non obstante" of the said statute: and for proof thereof I have cited about fifteen book-cases in my report of this case. And the first of those book-cases is the 2 H. VII. fol. 6, by the which it appeareth, that if a penal statute should add a clause, That the king should grant any dispensation thereof, "non obstante" the statute; yet the king, not-

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withstanding that clause of restraint, might grant dispensations at his pleasure with a "non obstante" thereof. Therefore seeing this royal prerogative and power to grant dispensations to penal laws is so incident and inseparable to the crown, as a clause in an act of parliament cannot restrain it, I am of opinion, that when the late queen granted to Sir Ed. D'Arcy to have the sole importation of this manufacture without limitation, and that no other should import any of the same during 21 years, that the same was not of force either against the late queen, or is of force against your majesty: for, if the said grant were of force, then could not the late queen or your majesty, during the said term, grant any dispensation of this statute concerning this manufacture to any other for any cause whatsoever; which is utterly against your majesty's inseparable prerogative, and consequently utterly void; which falleth not out where the licence hath a certain limitation of quantity or stint; for there the crown is not restrained to grant any other licence.

And therefore where it was resolved by Popham chief justice, and the court of King's Bench, before I was a judge, That the said dispensation or licence to have the sole importation and merchandizing of cards without any limitation or stint, should be void, I am of the same opinion; for that it is neither against your majesty's prerogative, nor power in granting of such dispensations; but tendeth to the maintenance of your majesty's prerogative royal,

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and may, if it stand with your majesty's pleasure, be so explained.

Wherein in all humbleness I submit myself to your Majesty's princely censure and judgment.

EDW. COKE.

THE HUMBLE AND DIRECT ANSWER TO THE QUESTION RISING UPON GODFREY'S CASE.

SOME courts cannot imprison, fine, nor amerce, as ecclesiastical courts holden before the ordinary, archdeacon, or their commissaries and such like, which proceed according to the common or civil law.

And being commanded to explain what I meant by this passage, I answer, that I intended only those ecclesiastical courts there named and such like, that is, such like ecclesiastical courts, as peculiars, etc.

And within these words, (And such like) I never did nor could intend thereby the high commission; for that is grounded upon an act of parliament, and the king's letters patents under the great seal. Therefore these words "commissaries" and "such like" cannot be extended to the high commission, but, as I have said, to inferior ecclesiastical courts.

Neither did I thereby intend the court of the admiralty; for that is not a like court to the courts before named; for those be ecclesiastical courts, and this is temporal. But I referred the reader to the case in Brooks's abridgment, pla. 77, where it is that, if the admiral, who proceeded by the civil law,

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hold plea of any thing done upon the land, that it is void and " coram non judice ;" and that an action of transgressions in that case doth lie, as by the said case it appeareth. And therefore that in that case he can neither fine nor imprison. And therewith agree divers acts of parliament; and so it may be explained, as it was truly intended.

All which I most humbly submit to your majesty's princely judgment.

EDW. COKE.

JOHN SELDEN, ESQ. TO THE LORD VISCOUNT ST. ALBAN.

MY MOST HONOURED LORD,

AT your last going to Gorhambury, you were pleased to have speech with me about some passages of parliament; touching which, I conceived, by your lordship, that I should have had farther direction by a gentleman, to whom you committed some care and consideration of your lordship's intentions therein. I can only give this account of it, that never was any man more willing or ready to do your lordship service, than myself; and in that you then spake of, I had been most forward to have done whatsoever I had been, by farther direction, used in. But I understood, that your lordship's pleasure that way was changed. Since, my lord, I was advised with, touching the judgments given in the late parliament. For them, if it please your lordship to hear my weak judgment expressed freely to you, I conceive thus.

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First, that admitting it were no session, but only a convention, as the proclamation calls it; yet the judgments given in the upper house, if no other reason be against them, are good; for they are given by the lords, or the upper house, by virtue of that ordinary authority, which they have as the supreme court of judicature; which is easily to be conceived, without any relation to the matter of session, which consists only in the passing of acts, or not passing them, with the royal assent. And though no session of the three states together be without such acts so passed; yet every part of the parliament severally did its own acts legally enough to continue, as the acts of other courts of justice are done. And why should any doubts be, but that a judgment out of the King's Bench, or Exchequer-Chamber, reversed there, had been good, although no session? For there was truly a parliament, truly an upper house, which exercised by itself this power of judicature although no session. Yet withal, my lord, I doubt, it will fall out, upon fuller consideration, to be thought a session also. Were it not for the proclamation, I should be clearly of that mind; neither doth the clause, in the act of subsidy, hinder it. For that only prevented the determination of the session at that instant; but did not prevent the being of a session, whensoever the parliament should be dissolved. But because that point was resolved in the proclamation, and also in the commission of dissolution on the 8th of February, I will rest satisfied.

But there are also examples of former times, that

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may direct us in that point of the judgment, in regard there is store of judgments of parliament, especially under Edward I. and Edward II. in such conventions, as never had, for aught appears, any act passed in them.

Next, my lord, I conceive thus; that by reason there is no record of those judgments, it may be justly thought, that they are of no force. For thus it stands. The lower house exhibited the declarations in paper; and the lords, receiving them, proceeded to judgment verbally; and the notes of their judgments are taken by the clerk, in the journal only; which, as I think, is no record of itself; neither was it ever used as one. Now the record, that in former times was of the judgments and proceedings there, was in this form. The accusation was exhibited in parchment; and being so received, and indorsed, was the first record; and that remained filed among the bills of parliament, it being of itself as the bills in the King's Bench. Then out of this there was a formal judgment, with the accusation entered into that roll, or second record, which the clerk transcribes by ancient use, and sends into the chancery.

But in this case there are none of these: neither doth any thing seem to help to make a record of it, than only this, that the clerk may enter it, now after the parliament; which, I doubt, he cannot. Because, although in other courts the clerks enter all, and make their records after the term; yet in this parliamentary proceeding it falls out, that the court being

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dissolved, the clerk cannot be said to have such a relation to the parliament, which is not then at all in being, as the prothonotaries of the courts of Westminster have to their courts, which stand only adjourned. Besides, there cannot be an example found, by which it may appear, that ever any record of the first kind, where the transcript is into the chancery, was made in parliament; but only sitting the house, and in their view. But this I offer to your lordship's farther consideration, desiring your favourable censure of my fancy herein; which, with whatsoever ability I may pretend to, shall ever be desirous to serve you, to whom I shall perpetually own myself

Your Lordship's most humble servant,

J. SELDEN.

From the Temple, February XIV, CIↃDCXXI.

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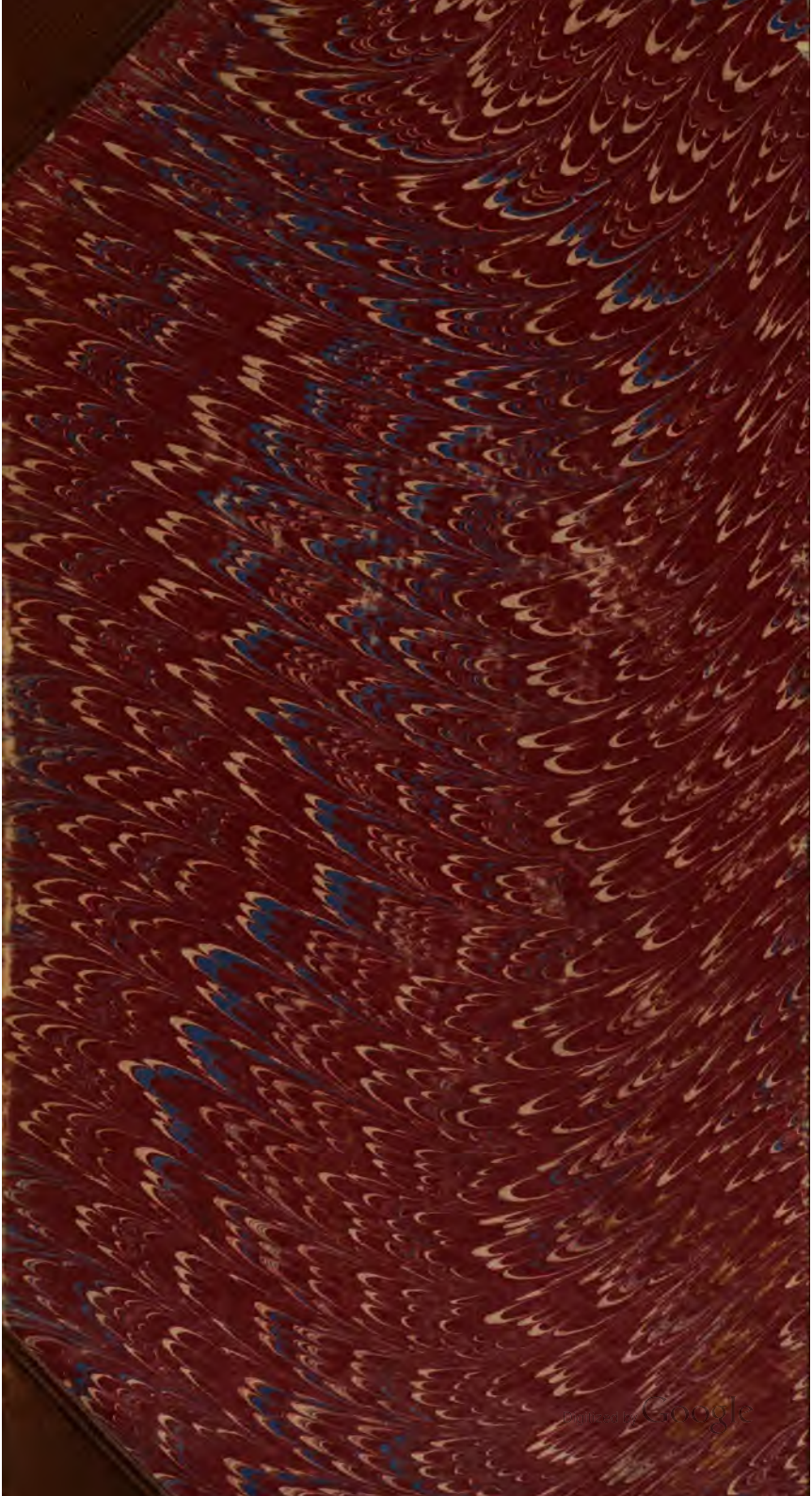

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